

TRANSPORTATION RECALL ENHANCEMENT,
 ACCOUNTABILITY, AND DOCUMENTATION (TREAD) ACT

OCTOBER 10, 2000.—Committed to the Committee of the Whole House on the State
 of the Union and ordered to be printed

Mr. BLILEY, from the Committee on Commerce,
 submitted the following

R E P O R T

[To accompany H.R. 5164]

The Committee on Commerce, to whom was referred the bill (H.R. 5164) to amend title 49, United States Code, to require reports concerning defects in motor vehicles or tires or other motor vehicle equipment in foreign countries, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:
 Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act”.

SEC. 2. REPORTING REQUIREMENTS.

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

“(1) **REPORTING OF DEFECTS IN MOTOR VEHICLES AND PRODUCTS IN FOREIGN COUNTRIES.**—

“(1) **REPORTING OF DEFECTS, MANUFACTURER DETERMINATION.**—Not later than 5 working days after determining to conduct a safety recall or other safety campaign in a foreign country on a motor vehicle or motor vehicle equipment that is identical or substantially similar to a motor vehicle or motor vehicle equipment offered for sale in the United States, the manufacturer shall report the determination to the Secretary.

“(2) **REPORTING OF DEFECTS, FOREIGN GOVERNMENT DETERMINATION.**—Not later than 5 working days after receiving notification that the government of a foreign country has determined that a safety recall or other safety campaign must be conducted in the foreign country on a motor vehicle or motor vehicle equipment that is identical or substantially similar to a motor vehicle or motor vehicle equipment offered for sale in the United States, the manufacturer of the motor vehicle or motor vehicle equipment shall report the determination to the Secretary.

“(3) **REPORTING REQUIREMENTS.**—The Secretary shall prescribe the contents of the notification required by this subsection.”

(b) **EARLY WARNING REPORTING REQUIREMENTS.**—Section 30166, of title 49, United States Code, is amended by adding at the end the following:

“(m) **EARLY WARNING REPORTING REQUIREMENTS.**—

“(1) **RULEMAKING REQUIRED.**—Not later than 120 days after the date of enactment of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, the Secretary shall initiate a rulemaking proceeding to establish early warning reporting requirements for manufacturers of motor vehicles and motor vehicle equipment to enhance the Secretary’s ability to carry out the provisions of this chapter.

“(2) **DEADLINE.**—The Secretary shall issue a final rule under paragraph (1) not later than June 30, 2002.

“(3) **REPORTING ELEMENTS.**—

“(A) **WARRANTY AND CLAIMS DATA.**—As part of the final rule promulgated under paragraph (1), the Secretary shall require manufacturers of motor vehicles and motor vehicle equipment to report, periodically or upon request by the Secretary, information which is received by the manufacturer derived from foreign and domestic sources to the extent that such information may assist in the identification of defects related to motor vehicle safety in motor vehicles and motor vehicle equipment in the United States and which concerns—

“(i) data on claims submitted to the manufacturer for serious injuries (including death) and aggregate statistical data on property damage from alleged defects in a motor vehicle or in motor vehicle equipment; and

“(ii) customer satisfaction campaigns, consumer advisories, recalls, or other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment.

“(B) **OTHER DATA.**—As part of the final rule promulgated under paragraph (1), the Secretary may, to the extent that such information may assist in the identification of defects related to motor vehicle safety in motor vehicles and motor vehicle equipment in the United States, require manufacturers of motor vehicles or motor vehicle equipment to report, periodically or upon request of the Secretary, such information as the Secretary may request.

“(C) **REPORTING OF POSSIBLE DEFECTS.**—The manufacturer of a motor vehicle or motor vehicle equipment shall report to the Secretary, in such manner as the Secretary establishes by regulation, all incidents of which the manufacturer receives actual notice which involve fatalities or serious injuries which are alleged or proven to have been caused by a possible defect in such manufacturer’s motor vehicle or motor vehicle equipment in the United States or a foreign country when the possible defect is in a motor vehicle or motor vehicle equipment that is identical or substantially similar to a motor vehicle or motor vehicle equipment offered for sale in the United States.

“(4) HANDLING AND UTILIZATION OF REPORTING ELEMENTS.—

“(A) SECRETARY’S SPECIFICATIONS.—In requiring the reporting of any information requested by the Secretary under this subsection, the Secretary shall specify in the final rule promulgated under paragraph (1)—

“(i) how such information will be reviewed and utilized to assist in the identification of defects related to motor vehicle safety;

“(ii) the systems and processes the Secretary will employ or establish to permit such information to be reviewed and utilized; and

“(iii) the manner and form of reporting such information, including in electronic form.

“(B) INFORMATION IN POSSESSION OF MANUFACTURER.—The regulations promulgated by the Secretary under paragraph (1) may not require a manufacturer of a motor vehicle or motor vehicle equipment to maintain and submit records respecting information not in the possession of the manufacturer.

“(C) DISCLOSURE.—None of the information collected pursuant to the final rule promulgated under paragraph (1) shall be disclosed pursuant to section 30167(b) unless the Secretary determines the disclosure of such information will assist in carrying out sections 30117(b) and 30118 through 30121.

“(D) BURDENSOME REQUIREMENTS.—In promulgating the final rule under paragraph (1), the Secretary shall not impose requirements unduly burdensome to a manufacturer of a motor vehicle or motor vehicle equipment, taking into account the manufacturer’s cost of complying with such requirements and the Secretary’s ability to use the information in a meaningful manner to assist in the identification of defects related to motor vehicle safety.

“(5) PERIODIC REVIEW.—As part of the final rule promulgated pursuant to paragraph (1), the Secretary shall specify procedures for the periodic review and update of such rule.”.

(c) SALE OR LEASE OF DEFECTIVE OR NONCOMPLIANT TIRE.—Section 30166 of title 49, United States Code, as amended by subsection (b), is amended by adding at the end the following:

“(n) SALE OR LEASE OF DEFECTIVE OR NONCOMPLIANT TIRE.—

“(1) IN GENERAL.—The Secretary shall, within 90 days of the date of this subsection, issue a final rule requiring any person who knowingly and willfully sells or leases for use on a motor vehicle a defective tire or a tire which is not compliant with an applicable tire safety standard with actual knowledge that the manufacturer of such tire has notified its dealers of such defect or non-compliance as required under section 30118(c) or as required by an order under section 30118(b) to report such sale or lease to the Secretary.

“(2) DEFECT OR NONCOMPLIANCE REMEDIED OR ORDER NOT IN EFFECT.—Regulations under paragraph (1) shall not require the reporting described in paragraph (1) where before delivery under a sale or lease of a tire—

“(A) the defect or noncompliance of the tire is remedied as required by section 30120; or

“(B) notification of the defect or noncompliance is required under section 30118(b) but enforcement of the order is restrained or the order is set aside in a civil action to which section 30121(d) applies.”.

(d) INSURANCE STUDY.—The Secretary of Transportation shall conduct a study to determine the feasibility and utility of obtaining aggregate information on a regular and periodic basis regarding claims made for private passenger automobile accidents from persons in the business of providing private passenger automobile insurance or of adjusting insurance claims for such automobiles. Not later than 120 days after the date of enactment of this Act, the Secretary shall transmit the results of such study to the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 3. REMEDIES WITHOUT CHARGE.

Section 30120(g)(1) of title 49, United States Code, is amended by—

- (1) striking “8 calendar years” and inserting “10 calendar years”; and
- (2) striking “3 calendar years” and inserting “5 calendar years”.

SEC. 4. PENALTIES.

(a) CIVIL PENALTIES.—Section 30165(a) of title 49, United States Code, is amended to read as follows:

“(a) CIVIL PENALTIES.—

“(1) IN GENERAL.—A person that violates any of sections 30112, 30115, 30117 through 30122, 30123(d), 30125(c), 30127, or 30141 through 30147, or a regulation prescribed thereunder, is liable to the United States Government for a civil penalty of not more than \$5,000 for each violation. A separate violation occurs

for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by any of those sections. The maximum penalty under this subsection for a related series of violations is \$15,000,000.

“(2) SECTION 30166.—A person who violates section 30166 or a regulation prescribed under that section is liable to the United States Government for a civil penalty for failing or refusing to allow or perform an act required under that section or regulation. The maximum penalty under this paragraph is \$5,000 per violation per day. The maximum penalty under this paragraph for a related series of daily violations is \$15,000,000.”.

(b) CRIMINAL PENALTIES.—

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

“§ 30170. Criminal Penalties.

“(a) CRIMINAL LIABILITY FOR FALSIFYING OR WITHHOLDING INFORMATION.—

“(1) GENERAL RULE.—A person who violates section 1001 of title 18 with respect to the reporting requirements of section 30166, with the specific intention of misleading the Secretary with respect to motor vehicle or motor vehicle equipment safety related defects that have caused death or grievous bodily harm to an individual, shall be subject to criminal penalties of a fine under title 18, United States Code, or imprisoned for not more than 15 years, or both.

“(2) SAFE HARBOR TO ENCOURAGE REPORTING AND FOR WHISTLE BLOWERS.—

“(A) CORRECTION.—A person described in paragraph (1) shall not be subject to criminal penalties under this subsection if such person corrects any improper reports or failure to report within a reasonable time.

“(B) REASONABLE TIME AND SUFFICIENCY OF CORRECTION.—The Secretary shall establish by regulation what constitutes a reasonable time for the purposes of subparagraph (A) and what manner of correction is sufficient for purposes of subparagraph (A). The Secretary shall issue a final rule under this subparagraph within 90 days of the date of enactment of this section.

“(C) EFFECTIVE DATE.—Subsection (a) shall not take effect before the final rule under subparagraph (B) takes effect.

“(b) COORDINATION WITH DEPARTMENT OF JUSTICE.—The Attorney General may bring an action, or initiate grand jury proceedings, for a violation of subsection (a) only at the request of the Secretary of Transportation.”.

(2) CLERICAL AMENDMENT.—The subchapter analysis for subchapter IV of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

“30170. Criminal penalties.”.

SEC. 5. ACCELERATION OF MANUFACTURER REMEDY PROGRAM.

Section 30120(c) of title 49, United States Code, is amended by inserting at the end thereof the following:

“(3) If the Secretary determines that a manufacturer’s remedy program is not likely to be capable of completion within a reasonable time, the Secretary may require the manufacturer to accelerate the remedy program if the Secretary finds—

“(A) that there is a risk of serious injury or death if the remedy program is not accelerated; and

“(B) that acceleration of the remedy program can be reasonably achieved by expanding the sources of replacement parts, expanding the number of authorized repair facilities, or both.

The Secretary may prescribe regulations to carry out this paragraph.”.

SEC. 6. SALES OF REPLACED TIRES.

Section 30120(d) of title 49, United States Code, is amended by adding at the end the following: “In the case of a remedy program involving the replacement of tires the manufacturer shall include a plan addressing how to prevent, to the extent reasonably within the control of the manufacturer, replaced tires from being resold for installation on a motor vehicle. The manufacturer shall include information about the implementation of such plan with each quarterly report to the Secretary about the progress about the notification and remedy campaign.”.

SEC. 7. SALES OF REPLACED EQUIPMENT.

Section 30112 of title 49, United States Code, is amended by adding at the end the following:

“(c) PROHIBITION ON SALES OF REPLACED EQUIPMENT.—No person may sell any item of motor vehicle equipment (including a tire) for installation on a motor vehicle that is the subject of a decision under section 30118(b) or a notice required under section 30118(c) or was removed from a motor vehicle as part of an action taken

under section 30120(a) or 30120(b) in a condition that it may be used for its original purpose unless the item of motor vehicle equipment is no longer defective or is otherwise free of the condition that was the subject of the action taken under section 30120(a) or 30120(b).”.

SEC. 8. CERTIFICATION LABEL.

Section 30115 of title 49, United States Code, is amended by inserting “(a) IN GENERAL.—” before “A manufacturer” and by adding at the end the following:

“(b) CERTIFICATION LABEL.—In the case of the certification label affixed by an intermediate or final stage manufacturer of a motor vehicle built in more than 1 stage, each intermediate or final stage manufacturer shall certify with respect to each applicable Federal motor vehicle safety standard—

“(1) that it has complied with the specifications set forth in the compliance documentation provided by the incomplete motor vehicle manufacturer in accordance with regulations prescribed by the Secretary; or

“(2) that it has elected to assume responsibility for compliance with that standard.

If the intermediate or final stage manufacturer elects to assume responsibility for compliance with the standard covered by the documentation provided by an incomplete motor vehicle manufacturer, the intermediate or final stage manufacturer shall notify the incomplete motor vehicle manufacturer in writing within a reasonable time of affixing the certification label. A violation of this subsection shall not be subject to a civil penalty under section 30165.”.

SEC. 9. ENDURANCE AND RESISTANCE STANDARDS FOR TIRES.

The Secretary of Transportation shall conduct a rulemaking to revise and update the tire standards published at 49 C.F.R. 571.109 and 49 C.F.R. 571.119. The Secretary shall complete the rulemaking under this section not later than June 1, 2002.

SEC. 10. IMPROVED TIRE INFORMATION.

(a) TIRE LABELING.—Within 30 days after the date of enactment of this Act, the Secretary of Transportation shall initiate a rulemaking proceeding to improve the labeling of tires required by section 30123 of title 49, United States Code to assist consumers in identifying tires that may be the subject of a recall by the manufacturer. The Secretary shall complete the rulemaking not later than June 1, 2002.

(b) INFLATION LEVELS AND LOAD LIMITS.—In the rulemaking initiated under subsection (a), the Secretary may take whatever additional action is appropriate to ensure that the public is aware of the importance of observing motor vehicle tire load limits and maintaining proper tire inflation levels to the safe operation of a motor vehicle. Such additional action may include a requirement that the manufacturer of motor vehicles provide the purchasers of the motor vehicles information on tire inflation levels and load limits if the Secretary determines that requiring such manufacturers to provide such information is the most appropriate way such information can be provided.

SEC. 11. ROLLOVER TESTS.

Section 30117 of title 49, United States Code, is amended by adding at the end the following:

“(c) ROLLOVER TESTS.—

“(1) DEVELOPMENT.—Not later than 2 years from the date of enactment of this subsection, the Secretary of Transportation, acting through the National Highway Traffic Safety Administration, shall—

“(A) develop a dynamic test on rollovers by motor vehicles for the purposes of a consumer information program; and

“(B) carry out a program of conducting such tests.

“(2) TEST RESULTS.—As the Secretary develops a test under paragraph (1)(A), the Secretary, acting through the National Highway Traffic Safety Administration, shall conduct a rulemaking to determine how best to disseminate test results to the public.

“(3) MOTOR VEHICLES COVERED.—This subsection applies to passenger cars, multipurpose passenger vehicles, and trucks with a gross vehicle weight rating of 10,000 pounds or less. A motor vehicle designed to provide temporary residential accommodations is not covered.”.

SEC. 12. TIRE PRESSURE WARNING.

Not later than one year after the date of enactment of this Act, the Secretary of Transportation, acting through the National Highway Traffic Safety Administration, shall complete a rulemaking for a regulation to require a warning system in a motor vehicle to indicate to the operator when a tire is significantly under inflated. Such requirement shall become effective not later than 2 years after the date of the completion of such rulemaking.

SEC. 13. IMPROVING CRITERIA USED IN A RECALL.

(a) **REVIEW OF STANDARDS AND CRITERIA USED IN OPENING A DEFECT INVESTIGATION.**—The Secretary shall, not later than 30 days after the date of enactment of this Act, undertake a comprehensive review of all standards, criteria, procedures, and methods, including data management and analytical capabilities, used by the National Highway Traffic Safety Administration in determining whether to open a defect investigation pursuant to subchapter II or IV of chapter 301 of title 49, United States Code, and shall undertake such steps as may be necessary to update and improve such standards, criteria, procedures, or methods, including data management and analytical capabilities.

(b) **REPORT TO CONGRESS.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing the Secretary's findings and actions under subsection (a).

SEC. 14. FOLLOW-UP REPORT.

One year after the date of enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall report to the Congress on the implementation of the amendments made by this Act and any recommendations for additional amendments for consumer safety.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

In addition to any sums authorized to be appropriated by sections 30104 or 32102 of title 49, United States Code, there is authorized to be appropriated to the Secretary of Transportation for the National Highway Traffic Safety Administration for fiscal year 2001 \$9,100,000 to carry out this Act and the amendments made by this Act. Such funds shall not be available for the general administrative expenses of the Secretary or the Administration.

PURPOSE AND SUMMARY

H.R. 5164, the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, is a bill to require reports concerning defects in motor vehicles or tires or other motor vehicle equipment, both domestically and in foreign countries.

The bill requires that manufacturers report to the Secretary of Transportation regarding defects in foreign country, and certain other data. The legislation also lengthens the period in which a motor vehicle equipment or tire manufacturer must provide a defect remedy at no charge, strengthens the statute's civil penalty structure, imposes a criminal penalty for falsifying or withholding information, and requires the Secretary to update the motor vehicle safety standards applicable to tires and improve tire labeling standards. Further, the legislation addresses the availability of parts during a recall, reimbursement for parts replaced immediately prior to a recall, and the resale of replaced equipment. Finally, the legislation authorizes appropriations for the activities authorized by the bill and addresses a number of public information and standard setting rulemakings.

BACKGROUND AND NEED FOR LEGISLATION

In 1990, Firestone began production of a specially-designed 15-inch ATX tire to be used as original equipment on the Ford Explorer, introduced by Ford in model year 1991. This tire was also sold directly to consumers as replacement equipment, and was used as original equipment on several other Ford models. A redesigned version of the tire was introduced both in 1995 and 1996, when the tire was renamed as the ATX II and the Wilderness.

Beginning in 1996, Firestone began receiving large numbers of claims relating to the 15-inch version of these tires, most involving claims of alleged tread separation—where the tread and one steel

belt separate from the other steel belt—a condition considered to be major tire failure. Beginning in mid-1997, Ford dealers in the Middle East began to report similar problems with the 16-inch tires. Testing conducted by Ford and Firestone led to limited recall actions in the Middle East, Venezuela, Malaysia, and Thailand in 1999 and the spring of 2000.

In March 2000, the National Highway Traffic Safety Administration (NHTSA) opened an initial inquiry into this matter, based upon 25 complaints received in 1999 and 2000. A formal investigation was opened in May 2000, and is ongoing. In August, Firestone agreed to a voluntary recall of all 15-inch ATX and ATX II tires, and those Wilderness tires produced at a Firestone plant in Decatur, Illinois. NHTSA also recently encouraged Firestone to expand its voluntary recall to include Wilderness tires produced at other plants, although Firestone has only agreed to examine and replace those tires on a case-by-case basis. For more information about the subcommittees' investigation and the chronology of events, please see the Committee Counsel's memorandum dated September 5, 2000 in preparation for the September 6, 2000 hearing on this matter.

On September 6 and 21, 2000, the Subcommittee on Telecommunications, Trade, and Consumer Protection held a joint hearing with the Subcommittee on Oversight and Investigations into the Firestone recall actions. From these hearings, it was apparent that NHTSA's reaction to these matters was lacking in several respects.

First, it is clear that the data available to NHTSA regarding the problems with the Firestone tires was insufficient. While testimony showed that the agency had received some complaints about the tires, both from consumers and from an automobile insurance company, they did not receive data about Ford's foreign recall actions or the internal company data on claims related to this data. Second, it is clear that NHTSA did not effectively use the data it did have in its possession to spot the trends related to the failure of these tires. NHTSA faced repeated questioning regarding its failure to act on information provided by a major automobile insurance carrier and admitted that it needs to review its own policies for evaluating its own data.

The Committee believes that the provisions of this legislation are an initial step toward correcting these problems. The bill maintains the existing relationship between NHTSA and the regulated community, but the Committee believes that this measure will create important incentives for manufacturers and others with important information about possible defects to come forward early.

HEARINGS

While the Committee on Commerce has not held hearings on the legislation, the Subcommittee on Telecommunications, Trade, and Consumer Protection and the Subcommittee on Oversight and Investigations heard the testimony of the Honorable Rodney T. Slater, Secretary of Transportation, regarding the Administration's legislative request at their joint hearing on the Ford/Firestone matter.

COMMITTEE CONSIDERATION

On September 21 and 26, 2000, the Subcommittee on Telecommunications, Trade, and Consumer Protection met in open markup session and approved H.R. 5164 for Full Committee consideration, as amended by a record vote of 23 yeas and no nays. On October 5, 2000, the Full Committee met in open markup session and ordered H.R. 5164 favorably reported to the House, with an amendment, by a record vote of 42 yeas and no nays.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. A motion by Mr. Bliley to report the bill, with an amendment, was agreed to by a record vote of 42 yeas and no nays. The names of Members voting for and against follow.

The following amendments were agreed to by a voice vote:

An amendment in the nature of a substitute by Mr. Tauzin, No. 1, making technical changes to the bill;

An amendment to the amendment in the nature of a substitute by Mr. Markey, No. 1a, requiring that the Secretary develop and carry out a program for the dynamic testing motor vehicles for rollovers for purposes of a consumer information program;

An amendment to the amendment in the nature of a substitute by Mr. Bryant, No. 1b, regulating the sale or lease of defective or noncompliant tires;

An amendment to the amendment in the nature of a substitute by Mr. Green, No. 1c, addressing certain motor vehicle safety standard certifications by intermediate or final stage manufacturers;

An amendment to the amendment in the nature of a substitute by Mr. Markey, No. 1e, addressing the reporting of possible defects;

An amendment to the amendment in the nature of a substitute by Mr. Upton, No. 1f, making technical changes;

An amendment to the amendment in the nature of a substitute by Mr. Bilbray, No. 1h, requiring that the Secretary report to Congress on the effectiveness of the bill;

An amendment to the amendment in the nature of a substitute by Mr. Markey, No. 1i, requiring the Secretary to complete a rulemaking for a regulation to require a warning system in a motor vehicle to indicate to the operator when the tire is significantly underinflated; and

An amendment to the amendment in the nature of a substitute by Mr. Bryant, No. 1j, requiring manufacturers to include a plan as part of a remedy program to prevent replaced tires from being resold.

The following amendments were withdrawn:

An amendment to the amendment in the nature of a substitute by Mr. Shimkus, No. 1d, directing the Secretary to improve child restraints; and

An amendment to the amendment in the nature of a substitute by Mr. Pallone, No. 1k, addressing the disposal of replaced tires.

The following amendment was not agreed to by a record vote of 14 yeas and 30 nays:

An amendment to the amendment in the nature of a substitute by Mr. Waxman, No. 1g, providing the Secretary with administrative penalty authority.

The names of Members voting for and against follow:

Committee on Commerce

One Hundred Sixth Congress

Record Vote No. 34

Bill: H.R. 5164, TREAD Act
Amendment or Motion: Amendment by Mr. Waxman, No. 1g
Disposition: NOT AGREED TO, by a record vote of 14 yeas and 30 nays

Representative	Yea	Nay	Pres	Representative	Yea	Nay	Pres
Mr. Bliley		X		Mr. Dingell		X	
Mr. Tauzin		X		Mr. Waxman	X		
Mr. Oxley		X		Mr. Markey	X		
Mr. Bilirakis				Mr. Hall		X	
Mr. Barton		X		Mr. Boucher			
Mr. Upton		X		Mr. Towns		X	
Mr. Stearns		X		Mr. Pallone	X		
Mr. Gillmor		X		Mr. Brown	X		
Mr. Greenwood				Mr. Gordon		X	
Mr. Cox		X		Mr. Deutsch			
Mr. Deal		X		Mr. Rush	X		
Mr. Largent		X		Mrs. Eshoo			
Mr. Burr		X		Mr. Klink			
Mr. Bilbray		X		Mr. Stupak		X	
Mr. Whitfield				Mr. Engel	X		
Mr. Ganske		X		Mr. Sawyer	X		
Mr. Norwood		X		Mr. Wynn	X		
Mr. Coburn		X		Mr. Green		X	
Mr. Lazio				Mrs. McCarthy	X		
Mrs. Cubin		X		Mr. Strickland	X		
Mr. Rogan		X		Mrs. DeGette	X		
Mr. Shimkus		X		Mr. Barrett	X		
Mrs. Wilson		X		Mr. Luther	X		
Mr. Shadegg		X		Mrs. Capps	X		
Mr. Pickering		X					
Mr. Fossella		X					
Mr. Blunt							
Mr. Bryant		X					
Mr. Ehrlich		X					

Committee on Commerce

One Hundred Sixth Congress

Record Vote No. 35

Bill: H.R. 5164, TREAD Act
Amendment or Motion: Reporting to the House with a favorable recommendation
Disposition: AGREED TO, by a record vote of 42 yeas and no nays

Representative	Yea	Nay	Pres	Representative	Yea	Nay	Pres
Mr. Bliley	X			Mr. Dingell	X		
Mr. Tauzin	X			Mr. Waxman			
Mr. Oxley	X			Mr. Markey	X		
Mr. Bilirakis				Mr. Hall			
Mr. Barton	X			Mr. Boucher	X		
Mr. Upton	X			Mr. Towns	X		
Mr. Stearns	X			Mr. Pallone	X		
Mr. Gillmor	X			Mr. Brown			
Mr. Greenwood	X			Mr. Gordon	X		
Mr. Cox	X			Mr. Deutsch	X		
Mr. Deal	X			Mr. Rush	X		
Mr. Largent	X			Mrs. Eshoo			
Mr. Burr	X			Mr. Klink			
Mr. Bilbray	X			Mr. Stupak			
Mr. Whitfield				Mr. Engel	X		
Mr. Ganske	X			Mr. Sawyer	X		
Mr. Norwood	X			Mr. Wynn	X		
Mr. Coburn				Mr. Green	X		
Mr. Lazio				Mrs. McCarthy	X		
Mrs. Cubin	X			Mr. Strickland	X		
Mr. Rogan	X			Mrs. DeGette	X		
Mr. Shimkus	X			Mr. Barrett	X		
Mrs. Wilson	X			Mr. Luther	X		
Mr. Shadegg	X			Mrs. Capps	X		
Mr. Pickering	X						
Mr. Fossella	X						
Mr. Blunt							
Mr. Bryant	X						
Mr. Ehrlich	X						

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held oversight hearings and made findings that are reflected in this report.

COMMITTEE ON GOVERNMENT REFORM OVERSIGHT FINDINGS

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Reform.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 5164, the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

The cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not timely received by the Committee. The Committee will submit such cost estimate to the House when it is received.

FEDERAL MANDATES STATEMENT

The estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not timely received by the Committee. The Committee will transmit such estimate to the House when it is received by the Committee.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 provides the short title of the bill, the “Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act”.

Section 2. Reporting requirements

Subsection (a) requires a manufacturer to notify NHTSA within five working days whenever the manufacturer determines to conduct a safety recall or other safety campaign in a foreign country with respect to motor vehicles and motor vehicle equipment that are identical or substantially similar to vehicles or equipment the manufacturer offers for sale in the United States. If a foreign government has officially made a determination that a safety recall or other safety campaign must be conducted within the country on a motor vehicle or motor vehicle equipment, then the manufacturer must notify NHTSA of such determination within five working days, where the manufacturer sells identical or similar vehicles or equipment in the United States. The Secretary is given regulatory authority to prescribe what information the manufacturer must provide in notifying NHTSA of the safety recall or campaign.

Subsection (b) directs NHTSA to initiate a rulemaking within 120 days to establish early warning reporting requirements for manufacturers of motor vehicles and motor vehicle equipment to assist NHTSA in reducing traffic accidents and deaths and injuries resulting from traffic accidents. NHTSA must finalize its rule by June 20, 2002. The rule must include requirements for such manufacturers to report, periodically or upon request by NHTSA, information that the manufacturer has in its possession that would help identify defects in motor vehicle and motor vehicle equipment safety in the United States. Such reports are to be limited to claims data submitted to the manufacturer for serious injuries, aggregate statistical data possessed by the manufacturer on property damage from alleged vehicle or equipment defects, and information on the manufacturer’s customer satisfaction campaigns, consumer advisories, recalls, and other programs for the repair or replacement of defective vehicles or equipment. NHTSA may include additional reporting requirements for manufacturers that it determines are necessary to identify defects related to vehicle and equipment safety in the United States.

Manufacturers of motor vehicles and motor vehicle equipment are required to report to NHTSA any incidents of which the manufacturer receives actual notice involving serious injuries which are alleged to have been caused by a defect in the manufacturer’s vehicle or equipment. If such injuries occur in a foreign country, then the manufacturer is required to report to NHTSA if the alleged defect is in a vehicle or equipment that is identical or substantially similar to that offered by the manufacturer for sale in the United States.

Before requiring any reporting of the information addressed in this subsection, NHTSA must specify in its final rule how it will review and utilize such reports to help identify defects related to motor vehicle safety, what systems and processes it will employ or establish to review and utilize such information, and the manner

and form in which manufacturers are required to report, including by electronic reporting. NHTSA may not require manufacturers of motor vehicles or motor vehicle equipment to maintain or submit records not in the manufacturer's possession. In addition, NHTSA may not impose requirements that are unduly burdensome to a manufacturer, taking into account the manufacturer's cost of complying with such requirements and NHTSA's ability to use the information it seeks in a meaningful manner to help identify motor vehicle safety defects. NHTSA must specify procedures for periodically reviewing and updating its information reporting requirements under this subsection.

Subsection (c) directs NHTSA, within 90 days, to issue a rule requiring any person who knowingly and willfully sells or leases a defective or noncompliant tire for use on a motor vehicle to report such sale or lease to the Secretary if the person has actual knowledge that the manufacturer has notified its dealers of such defect or noncompliance as required under the recall provisions of subsections 30118(b) and (c) of title 49 of the United States Code. The Committee intends the phrase "knowingly and willfully", in all uses throughout this Act, to represent the common and traditional meaning of those words involving actual knowledge and willful action, as opposed to including any facet of reckless disregard. A person will not be required to report such sale if the defect or noncompliance is remedied before the sale or lease, or if the recall order is restrained or set aside in a civil action described in section 30121(d) of Title 49 of the United States Code.

Subsection (d) directs NHTSA to conduct a study within 120 days to determine whether it is feasible and useful for Congress to authorize NHTSA to obtain aggregate information from automobile insurers regarding motor vehicle accident claims.

Section 3. Remedies without charge

This section lengthens the time period that consumers are able to have a defective or noncompliant motor vehicle or motor vehicle equipment remedied free of charge, measured from the time of the first sale to the determination by the manufacturer or NHTSA of such noncompliance or defect. For motor vehicles and replacement equipment other than tires, the time period from the first purchaser has been extended from eight to ten years, and for tires the period has been extended from three years to five years.

Section 4. Penalties

Subsection (a) increases the civil penalties that NHTSA may assess for violations of certain provisions of title 49 of the United States Code from \$1,000 for each violation to \$5,000 for each violation, and from a maximum of \$800,000 for a related series of violations to \$15,000,000. New civil penalties are imposed for violating any of NHTSA's reporting requirements under section 30166 of title 49 of the United States Code, with maximum penalties of \$5,000 per violation per day, with a maximum of \$15,000,000 for a related series of daily violations.

Subsection (b) imposes additional criminal penalties for egregious violations of the reporting requirements of section 30166. Under current law, section 1001 of title 18 of the United States Code, it is a crime punishable by up to five years in jail and by fines (up

to \$250,000 for individuals and \$500,000 for corporations) for any person to knowingly and willfully falsify, conceal, cover up by any trick, scheme, or device a material fact, make any materially false, fictitious, or fraudulent statement or representation, or make or use any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry. If a person in fact so acts, with the specific intention of misleading NHTSA with respect to motor vehicle or motor vehicle safety related defects that have caused death or grievous bodily harm to an individual, then that person is subject to criminal penalties as set forth under title 18, or imprisonment for not more than 15 years (10 years more than the maximum under section 1001 of title 18), or both. The Committee does not believe that the knowingly and willful requirement of section 1001 of title 18 could or should be construed to include reckless disregard. A safe harbor is provided from the additional criminal penalties where a person corrects any improper reports or failure to report within a reasonable time. NHTSA is directed to establish by regulation within 90 days what constitutes a reasonable time and what form of correction or reporting is sufficient to come within the coverage of the safe harbor. The Committee expects that NHTSA will construe a reasonable time to be at some point after the person is aware that a defect or noncompliance related to the falsified or concealed information exists and that the defect or noncompliance has caused serious bodily injury. The additional criminal penalties established by this subsection will not take effect until after NHTSA issues a final rule (within 90 days) establishing what constitutes a reasonable time and a reasonable manner for correction of misreported information. The additional criminal penalties will be charged against a person by the Attorney General only after a request by NHTSA.

Section 5. Acceleration of manufacturer remedy program

This section allows NHTSA to require a manufacturer to accelerate a remedy program if NHTSA determines that a manufacturer's remedy program will not be completed within a reasonable time, that a serious injury is likely to result if the program is not accelerated, and that acceleration of the program can be reasonably achieved by expanding the sources of replacement parts, expanding the number of authorized repair facilities, or both.

Section 6. Sale of replaced tires

The manufacturer of a tire that is the subject of a recall for a defect or noncompliance will include in its remedy program a plan for ensuring that any replaced tires are not resold for installation on a motor vehicle (unless remedied), to the extent that the manufacturer can reasonably control such resales. The manufacturer must, in its regular reports to NHTSA, include information in the reports about its implementation of such plan.

Section 7. Sales of replaced equipment

This section makes it illegal to sell for installation on a motor vehicle any motor vehicle equipment (including a tire) that is the continued subject of a recall program. Such sale is allowed only if the equipment is not sold in a condition that it may be used for its original purpose, unless the equipment is made no longer defective

or noncompliant, such as by modification, repair, or an injunction of the recall.

Section 8. Certification label

Current law requires a manufacturer or distributor of a motor vehicle or motor vehicle equipment to certify with a label fixed to a vehicle or attached to a container of motor vehicle equipment that the vehicle or equipment complies with applicable Federal vehicle safety standards. This section requires an intermediate or final stage manufacturer of a motor vehicle built in more than 1 stage to certify with respect to such standards that it has either assumed responsibility for compliance with the standards, or that it has complied with the specifications set forth in the compliance documentation provided by the incomplete motor vehicle manufacturer. If the intermediate or final stage manufacturer chooses to assume responsibility for compliance with the standard covered by the documentation provided by an incomplete manufacturer, then the manufacturer must notify such incomplete manufacturer within a reasonable time of affixing the certification label. This provision will not be subject to civil penalties by NHTSA.

Section 9. Endurance and resistance standards for tires

NHTSA is directed to complete a rulemaking to revise and update its tire standards by June 1, 2002.

Section 10. Improved tire information

Within 30 days, NHTSA will begin a rulemaking to improve the labeling of tires to help consumers identify whether such tires are the subject of a recall. NHTSA is directed to complete its rulemaking by June 1, 2002. The rulemaking will also include whatever action the Secretary determines is necessary to make the public aware of the importance of observing motor vehicle tire load limits and maintaining proper tire inflation levels to ensure the safe operation of motor vehicles. Such action may include a requirement that the manufacturer provide consumers with information on appropriate tire inflation levels and load limits if the Secretary determines that requiring the manufacturers to provide such information is the most efficient way to educate consumers.

Section 11. Rollover tests

Within two years, NHTSA must develop a dynamic test on motor vehicle rollovers for the purposes of a consumer information program and must carry out a program of conducting such tests. NHTSA must also conduct a rulemaking to determine how to best disseminate the results of such tests to the public. The rollover tests must be designed for new motor vehicles, including passenger cars and multipurpose passenger vehicles, and trucks, that have a gross vehicle weight rating of 10,000 pounds or less. The tests will not be applied to motor-homes.

Section 12. Tire pressure warning

Within one year, NHTSA must complete a rule to require within two years that newly manufactured motor vehicles to contain a warning system that signals to the vehicle operator when a tire is significantly under-inflated.

Section 13. Improving criteria used in a recall

Within 30 days, the Secretary of Transportation is directed to undertake a comprehensive review of, and undertake any necessary steps to improve, all standards, criteria, procedures, and methods, including data management and analysis, used by NHTSA in determining whether to open a defect or noncompliance investigation. The Secretary must report to Congress on its findings and actions undertaken after such review.

Section 14. Follow-up report

NHTSA must report to Congress within one year on the implementation of this Act, as well as any additional recommendations for consumer safety.

Section 15. Authorization of appropriations

An additional \$9.1 million is authorized to be appropriated for the Secretary and NHTSA to carry out this Act, although such funds are not to be used for general administrative expenses of the Secretary or NHTSA.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 49, UNITED STATES CODE

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SUBTITLE VI—MOTOR VEHICLE AND DRIVER PROGRAMS

* * * * *

PART A—GENERAL

CHAPTER 301—MOTOR VEHICLE SAFETY

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SUBCHAPTER IV—ENFORCEMENT AND ADMINISTRATIVE

30161. Judicial review of standards.

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30170. *Criminal penalties.*

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SUBCHAPTER II—STANDARDS AND COMPLIANCE

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§ 30112. Prohibitions on manufacturing, selling, and importing noncomplying motor vehicles and equipment

(a) * * *

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(c) *PROHIBITION ON SALES OF REPLACED EQUIPMENT.*—No person may sell any item of motor vehicle equipment (including a tire) for installation on a motor vehicle that is the subject of a decision under section 30118(b) or a notice required under section 30118(c) or was removed from a motor vehicle as part of an action taken under section 30120(a) or 30120(b) in a condition that it may be used for its original purpose unless the item of motor vehicle equipment is no longer defective or is otherwise free of the condition that was the subject of the action taken under section 30120(a) or 30120(b).

* * * * *

§ 30115. Certification of compliance

(a) *IN GENERAL.*—A manufacturer or distributor of a motor vehicle or motor vehicle equipment shall certify to the distributor or dealer at delivery that the vehicle or equipment complies with applicable motor vehicle safety standards prescribed under this chapter. A person may not issue the certificate if, in exercising reasonable care, the person has reason to know the certificate is false or misleading in a material respect. Certification of a vehicle must be shown by a label or tag permanently fixed to the vehicle. Certification of equipment may be shown by a label or tag on the equipment or on the outside of the container in which the equipment is delivered.

(b) *CERTIFICATION LABEL.*—In the case of the certification label affixed by an intermediate or final stage manufacturer of a motor vehicle built in more than 1 stage, each intermediate or final stage manufacturer shall certify with respect to each applicable Federal motor vehicle safety standard—

- (1) that it has complied with the specifications set forth in the compliance documentation provided by the incomplete motor vehicle manufacturer in accordance with regulations prescribed by the Secretary; or
- (2) that it has elected to assume responsibility for compliance with that standard.

If the intermediate or final stage manufacturer elects to assume responsibility for compliance with the standard covered by the documentation provided by an incomplete motor vehicle manufacturer, the intermediate or final stage manufacturer shall notify the incomplete motor vehicle manufacturer in writing within a reasonable time of affixing the certification label. A violation of this subsection shall not be subject to a civil penalty under section 30165.

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§ 30117. Providing information to, and maintaining records on, purchasers

(a) * * *

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(c) ROLLOVER TESTS.—

(1) DEVELOPMENT.—Not later than 2 years from the date of enactment of this subsection, the Secretary of Transportation, acting through the National Highway Traffic Safety Administration, shall—

- (A) develop a dynamic test on rollovers by motor vehicles for the purposes of a consumer information program; and
- (B) carry out a program of conducting such tests.

(2) TEST RESULTS.—As the Secretary develops a test under paragraph (1)(A), the Secretary, acting through the National Highway Traffic Safety Administration, shall conduct a rule-making to determine how best to disseminate test results to the public.

(3) MOTOR VEHICLES COVERED.—This subsection applies to passenger cars, multipurpose passenger vehicles, and trucks with a gross vehicle weight rating of 10,000 pounds or less. A motor vehicle designed to provide temporary residential accommodations is not covered.

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§ 30120. Remedies for defects and noncompliance

(a) * * *

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(c) ADEQUACY OF REPAIRS.—(1) * * *

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(3) If the Secretary determines that a manufacturer's remedy program is not likely to be capable of completion within a reasonable time, the Secretary may require the manufacturer to accelerate the remedy program if the Secretary finds—

- (A) that there is a risk of serious injury or death if the remedy program is not accelerated; and
- (B) that acceleration of the remedy program can be reasonably achieved by expanding the sources of replacement parts, expanding the number of authorized repair facilities, or both.

The Secretary may prescribe regulations to carry out this paragraph.

(d) FILING MANUFACTURER'S REMEDY PROGRAM.—A manufacturer shall file with the Secretary a copy of the manufacturer's program under this section for remedying a defect or noncompliance. The Secretary shall make the program available to the public and publish a notice of availability in the Federal Register. In the case of a remedy program involving the replacement of tires the manufacturer shall include a plan addressing how to prevent, to the extent reasonably within the control of the manufacturer, replaced tires from being resold for installation on a motor vehicle. The manufacturer shall include information about the implementation of such plan with each quarterly report to the Secretary about the progress about the notification and remedy campaign.

* * * * *

(g) NONAPPLICATION.—(1) The requirement that a remedy be provided without charge does not apply if the motor vehicle or replacement equipment was bought by the first purchaser more than [8] 10 calendar years, or the tire, including an original equipment tire,

was bought by the first purchaser more than [3] 5 calendar years, before notice is given under section 30118(c) of this title or an order is issued under section 30118(b) of this title, whichever is earlier.

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SUBCHAPTER IV—ENFORCEMENT AND ADMINISTRATIVE

* * * * *

§ 30165. Civil penalty

[(a) PENALTY.—A person that violates any of sections 30112, 30115, 30117–30122, 30123(d), 30125(c), 30127, 30141–30147, or 30166 of this title or a regulation prescribed under any of those sections is liable to the United States Government for a civil penalty of not more than \$1,000 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by any of those sections. The maximum penalty under this subsection for a related series of violations is \$800,000.]

(a) CIVIL PENALTIES.—

(1) IN GENERAL.—A person that violates any of sections 30112, 30115, 30117 through 30122, 30123(d), 30125(c), 30127, or 30141 through 30147, or a regulation prescribed thereunder, is liable to the United States Government for a civil penalty of not more than \$5,000 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by any of those sections. The maximum penalty under this subsection for a related series of violations is \$15,000,000.

(2) SECTION 30166.—A person who violates section 30166 or a regulation prescribed under that section is liable to the United States Government for a civil penalty for failing or refusing to allow or perform an act required under that section or regulation. The maximum penalty under this paragraph is \$5,000 per violation per day. The maximum penalty under this paragraph for a related series of daily violations is \$15,000,000.

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§ 30166. Inspections, investigations, and records

(a) * * *

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(1) REPORTING OF DEFECTS IN MOTOR VEHICLES AND PRODUCTS IN FOREIGN COUNTRIES.—

(1) REPORTING OF DEFECTS, MANUFACTURER DETERMINATION.—Not later than 5 working days after determining to conduct a safety recall or other safety campaign in a foreign country on a motor vehicle or motor vehicle equipment that is identical or substantially similar to a motor vehicle or motor vehicle equipment offered for sale in the United States, the manufacturer shall report the determination to the Secretary.

(2) REPORTING OF DEFECTS, FOREIGN GOVERNMENT DETERMINATION.—Not later than 5 working days after receiving notification that the government of a foreign country has determined that a safety recall or other safety campaign must be

conducted in the foreign country on a motor vehicle or motor vehicle equipment that is identical or substantially similar to a motor vehicle or motor vehicle equipment offered for sale in the United States, the manufacturer of the motor vehicle or motor vehicle equipment shall report the determination to the Secretary.

(3) *REPORTING REQUIREMENTS.*—The Secretary shall prescribe the contents of the notification required by this subsection.

(m) *EARLY WARNING REPORTING REQUIREMENTS.*—

(1) *RULEMAKING REQUIRED.*—Not later than 120 days after the date of enactment of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, the Secretary shall initiate a rulemaking proceeding to establish early warning reporting requirements for manufacturers of motor vehicles and motor vehicle equipment to enhance the Secretary's ability to carry out the provisions of this chapter.

(2) *DEADLINE.*—The Secretary shall issue a final rule under paragraph (1) not later than June 30, 2002.

(3) *REPORTING ELEMENTS.*—

(A) *WARRANTY AND CLAIMS DATA.*—As part of the final rule promulgated under paragraph (1), the Secretary shall require manufacturers of motor vehicles and motor vehicle equipment to report, periodically or upon request by the Secretary, information which is received by the manufacturer derived from foreign and domestic sources to the extent that such information may assist in the identification of defects related to motor vehicle safety in motor vehicles and motor vehicle equipment in the United States and which concerns—

(i) data on claims submitted to the manufacturer for serious injuries (including death) and aggregate statistical data on property damage from alleged defects in a motor vehicle or in motor vehicle equipment; and

(ii) customer satisfaction campaigns, consumer advisories, recalls, or other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment.

(B) *OTHER DATA.*—As part of the final rule promulgated under paragraph (1), the Secretary may, to the extent that such information may assist in the identification of defects related to motor vehicle safety in motor vehicles and motor vehicle equipment in the United States, require manufacturers of motor vehicles or motor vehicle equipment to report, periodically or upon request of the Secretary, such information as the Secretary may request.

(C) *REPORTING OF POSSIBLE DEFECTS.*—The manufacturer of a motor vehicle or motor vehicle equipment shall report to the Secretary, in such manner as the Secretary establishes by regulation, all incidents of which the manufacturer receives actual notice which involve fatalities or serious injuries which are alleged or proven to have been caused by a possible defect in such manufacturer's motor vehicle or motor vehicle equipment in the United States or a foreign country when the possible defect is in a motor ve-

hicle or motor vehicle equipment that is identical or substantially similar to a motor vehicle or motor vehicle equipment offered for sale in the United States.

(4) *HANDLING AND UTILIZATION OF REPORTING ELEMENTS.*—

(A) *SECRETARY'S SPECIFICATIONS.*—In requiring the reporting of any information requested by the Secretary under this subsection, the Secretary shall specify in the final rule promulgated under paragraph (1)—

(i) how such information will be reviewed and utilized to assist in the identification of defects related to motor vehicle safety;

(ii) the systems and processes the Secretary will employ or establish to permit such information to be reviewed and utilized; and

(iii) the manner and form of reporting such information, including in electronic form.

(B) *INFORMATION IN POSSESSION OF MANUFACTURER.*—

The regulations promulgated by the Secretary under paragraph (1) may not require a manufacturer of a motor vehicle or motor vehicle equipment to maintain and submit records respecting information not in the possession of the manufacturer.

(C) *DISCLOSURE.*—None of the information collected pursuant to the final rule promulgated under paragraph (1) shall be disclosed pursuant to section 30167(b) unless the Secretary determines the disclosure of such information will assist in carrying out sections 30117(b) and 30118 through 30121.

(D) *BURDENSOME REQUIREMENTS.*—In promulgating the final rule under paragraph (1), the Secretary shall not impose requirements unduly burdensome to a manufacturer of a motor vehicle or motor vehicle equipment, taking into account the manufacturer's cost of complying with such requirements and the Secretary's ability to use the information in a meaningful manner to assist in the identification of defects related to motor vehicle safety.

(5) *PERIODIC REVIEW.*—As part of the final rule promulgated pursuant to paragraph (1), the Secretary shall specify procedures for the periodic review and update of such rule.

(n) *SALE OR LEASE OF DEFECTIVE OR NONCOMPLIANT TIRE.*—

(1) *IN GENERAL.*—The Secretary shall, within 90 days of the date of this subsection, issue a final rule requiring any person who knowingly and willfully sells or leases for use on a motor vehicle a defective tire or a tire which is not compliant with an applicable tire safety standard with actual knowledge that the manufacturer of such tire has notified its dealers of such defect or noncompliance as required under section 30118(c) or as required by an order under section 30118(b) to report such sale or lease to the Secretary.

(2) *DEFECT OR NONCOMPLIANCE REMEDIED OR ORDER NOT IN EFFECT.*—Regulations under paragraph (1) shall not require the reporting described in paragraph (1) where before delivery under a sale or lease of a tire—

(A) the defect or noncompliance of the tire is remedied as required by section 30120; or

(B) notification of the defect or noncompliance is required under section 30118(b) but enforcement of the order is restrained or the order is set aside in a civil action to which section 30121(d) applies.

* * * * *

§ 30170. Criminal Penalties.

(a) CRIMINAL LIABILITY FOR FALSIFYING OR WITHHOLDING INFORMATION.—

(1) GENERAL RULE.—A person who violates section 1001 of title 18 with respect to the reporting requirements of section 30166, with the specific intention of misleading the Secretary with respect to motor vehicle or motor vehicle equipment safety related defects that have caused death or grievous bodily harm to an individual, shall be subject to criminal penalties of a fine under title 18, United States Code, or imprisoned for not more than 15 years, or both.

(2) SAFE HARBOR TO ENCOURAGE REPORTING AND FOR WHISTLE BLOWERS.—

(A) CORRECTION.—A person described in paragraph (1) shall not be subject to criminal penalties under this subsection if such person corrects any improper reports or failure to report within a reasonable time.

(B) REASONABLE TIME AND SUFFICIENCY OF CORRECTION.—The Secretary shall establish by regulation what constitutes a reasonable time for the purposes of subparagraph (A) and what manner of correction is sufficient for purposes of subparagraph (A). The Secretary shall issue a final rule under this subparagraph within 90 days of the date of enactment of this section.

(C) EFFECTIVE DATE.—Subsection (a) shall not take effect before the final rule under subparagraph (B) takes effect.

(b) COORDINATION WITH DEPARTMENT OF JUSTICE.—The Attorney General may bring an action, or initiate grand jury proceedings, for a violation of subsection (a) only at the request of the Secretary of Transportation.

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