

**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration****49 CFR Part 582**

[Docket No. NHTSA–2013–0078]

**Insurance Cost Information Regulation**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Request for comments.

**SUMMARY:** The National Highway Traffic Safety Administration (NHTSA) is seeking comment on the most useful data, format and method for reporting simple and understandable motor vehicle damage susceptibility information to consumers. NHTSA plans to use this information to meet a requirement by Congress that it study and report its findings, including the possibility that no damage susceptibility data is useful to consumers or that no useful format or method exists for reporting damage susceptibility information to consumers.

**DATES:** You should submit your comments early enough to ensure that Docket Management receives them no later than January 28, 2014.

**ADDRESSES:** Comments should refer to the docket number above and be submitted by one of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251
- *Instructions:* For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the

**SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

- *Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the

comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78). For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or the street address listed above. Follow the online instructions for accessing the dockets.

**FOR FURTHER INFORMATION CONTACT:** Deborah Mazyck, Office of International Policy, Fuel Economy and Consumer Programs, NVS–131, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., West Building, W43–443, Washington, DC 20590–0001, phone 202–366–4139.

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**I. Background***A. Previous Rulemaking/Legislative History*

In response to a growing concern about the large amount of money the American consumer was spending on maintenance of automobiles and repair of crash damage, the Motor Vehicle Information and Cost Savings (MVICS) Act, Public Law 92–513, was enacted on October 20, 1972. Among other provisions, the MVICS Act required the Secretary of Transportation to compile and provide the public with information that allowed comparison of damage susceptibility, crashworthiness, and the degree of difficulty of diagnosis and repair of damage to or failure of mechanical and electrical systems among makes and models of passenger motor vehicles.<sup>1</sup> This requirement is codified in 49 U.S.C. 32302.<sup>2</sup> Until early 2013, § 32302 also required that the Secretary of Transportation prescribe regulations requiring passenger motor vehicle dealers to distribute to prospective buyers information the

<sup>1</sup> MVICS Act § 201(d) (codified as amended at 49 U.S.C. 32302(a)–(b)).

<sup>2</sup> Section 31305 of the Moving Ahead for Progress in the 21st Century Act (MAP–21), Public Law 112–114 (July 6, 2012) amended subsection (a) by adding language expanding the type of comparative vehicle information to be developed and provided to the public to include crash avoidance and any other areas the Secretary determines will improve the safety of passenger motor vehicles.

Secretary develops and provides to the dealers that compares insurance costs for different makes and models of passenger motor vehicles based on damage susceptibility and crashworthiness.<sup>3</sup> The purpose of these requirements was to provide a means of reducing the costs of repairs and insurance by increasing public awareness of these characteristics and motivating manufacturers to build cars which are safe to operate, more damage resistant, less expensive to repair, and less costly to insure.

NHTSA implemented these requirements through several different programs. Information relating to vehicle crashworthiness and various types of crash avoidance systems are available through NHTSA's New Car Assessment Program (NCAP). NCAP provides vehicle safety information that enables consumers to compare the safety performance and features of new vehicles, helping them to make their new vehicle purchasing decisions and encouraging manufacturers to improve the safety aspects of existing vehicle designs and include new or better safety technologies in future vehicle designs. NCAP data (including frontal crash protection and other crash test data) is available online at [www.safercar.gov](http://www.safercar.gov).

In order to meet the specific requirements regarding insurance cost information, NHTSA established 49 CFR Part 582, Insurance Cost Information Regulation. This regulation required automobile dealers to make available and provide information comparing insurance rates for different makes and models of passenger motor vehicles based on their differences in damage susceptibility and crashworthiness to prospective purchasers where they offered new vehicles for sale. Failure to provide this information could result in civil penalties to the dealership.

Part 582 required new car dealers to make collision loss experience data available to prospective customers in a booklet, the Insurance Cost Information Booklet, prepared and annually provided by NHTSA from data compiled by the Highway Loss Data Institute (HLDI). The Insurance Cost Information Booklet provides information on comparative insurance costs, based on damage susceptibility and crashworthiness, for different makes and models of passenger cars, sport utility vehicles, light trucks, and vans. In the March 5, 1993 final rule establishing the requirements, NHTSA indicated that it would provide each dealer with a single copy of the booklet

<sup>3</sup> MVICS Act § 201(e) (formerly codified at 49 U.S.C. 32302(c)).

and give new car dealerships the responsibility of reproducing a sufficient number of copies for retention by their prospective purchasers.<sup>4</sup>

#### B. Public Law 112–252

Public Law 112–252, passed by Congress and signed by the President on January 10, 2013, repeals the statutory provision mandating the requirement for passenger motor vehicle dealers to distribute this information to prospective buyers. The House of Representatives Committee on Energy and Commerce Report on the bill that became Public Law 112–252<sup>5</sup> identified the requirement as obsolete. The Committee noted that consumers rarely requested the information, civil penalties were imposed on dealerships if booklets were not available, and the insurance cost data in the booklet was general and questionable.

NHTSA has notified new vehicle dealers that, because of the repeal of subsection (c) of § 32302 of title 49, U.S.C., passenger motor vehicle dealers are no longer required to make the Insurance Cost Information Booklet available, or to reproduce a sufficient number of copies for retention for their prospective purchasers. As a practical matter, NHTSA does not have funding available to publish and distribute multiple copies of the Insurance Cost Information Booklet to the more than 2,700 new vehicle dealers in the U.S.

Although Public Law 112–252 repealed the provision mandating that dealers distribute certain information, the law did not amend the Secretary's discretionary authority to require dealers to distribute damage susceptibility information to purchasers.<sup>6</sup> However, the law amended 49 U.S.C. 32302(b) by adding that “(t)he Secretary, after providing an opportunity for public comment, shall study and report to Congress the most useful data, format, and method for providing simple and understandable information to consumers. Congress has directed the agency to carry out this requirement no later than the date that is 2 years after the date of the enactment.”<sup>7</sup>

Thus, the agency seeks information to address Congress's amendment to § 32302(b) on the most useful, if any, alternative data, format, and method for providing simple and understandable damage susceptibility information to consumers. The agency is also seeking

this information to assist us in determining whether to continue publishing the annual Insurance Cost Information Booklet and, if so, what types of enhancements can be made to ensure the continued availability of the insurance cost information to prospective vehicle purchasers. The agency is interested in determining if revisions to its current information and process would be necessary or could be improved. At this time, NHTSA welcomes written comments from the public on the issues discussed in this request for comments or on any other topic within the scope of this request.

#### C. Insurance Cost Information Booklet

The data in the Insurance Cost Information Booklet contains the best available information known to the agency on the effect of damage susceptibility on insurance premiums. The data for NHTSA's annual booklet was taken from information compiled by HLDI. The agency's most recent publication of the Insurance Cost Information Booklet (February 2013, DOT HS 811 738) uses data from HLDI's December 2012 *Insurance Collision Report*. It reflects the collision loss experience of passenger cars, utility vehicles, light trucks, and vans sold in the United States in terms of the average loss payment per insured vehicle year for model years 2010–2012. The data presented vehicle collision loss experience in relative terms, with a rating of 100 representing the average for all passenger vehicles. For example, a rating of 122 reflects a collision loss experience that is 22 percent higher (worse) than average, while a rating of 96 reflects a collision loss experience that is 4 percent lower (better) than average. The data is not relevant for models that have been substantially redesigned for 2012, and it does not include information about models with insufficient claim experience.

Additionally, different insurance companies often charge different premiums for the same driver and vehicle. Therefore, purchasers are advised to contact insurance company agents directly to determine the actual premium that they will be charged for insuring a particular vehicle. The Insurance Cost Information Booklet is annually made available to consumers through the agency's Web site at [www.nhtsa.gov/theft](http://www.nhtsa.gov/theft), under the “Additional Resources” heading.

#### II. Comments Requested

The agency is seeking public input regarding possible approaches it may take to provide information regarding damage susceptibility for makes and

models of passenger cars, sport utility vehicles, light trucks, and vans.

The agency welcomes comments on areas of relevance that are not listed in this notice, but are areas that commenters believe the agency should consider on the most useful data, format, and method for providing simple and understandable damage susceptibility information to consumers. NHTSA will consider all comments received. After we receive comments, we will address all areas listed in this notice, plus any new areas that were provided by public comments. We will then use this information to develop a Report to Congress due January 10, 2015.

#### III. Request for Comments on Particular Issues

This notice discusses the various subject areas for which NHTSA is seeking comments and information with respect to their future potential as an enhancement to providing alternative types of damage susceptibility and insurance cost information. Some of the areas, if pursued, may require time and additional work by the agency. NHTSA seeks information and public comment about each area.

a. Provide any comments on consumer experiences with the usefulness, reliability and availability of insurance cost information based on damage susceptibility for motor vehicles.

b. Have there been any instances that can be provided to support whether consumers have requested information on the damage susceptibility of vehicles when they have visited dealerships?

c. Have there been any instances that can be provided to support whether consumers have seen, requested or were provided a copy of the Insurance Cost Information Booklet when they have visited dealerships?

d. What suggestions do you have to increase public awareness of damage susceptibility and insurance cost information?

e. What suggestions would you make to improve the availability of damage susceptibility and insurance cost information to new car purchasers?

f. Provide any comments or information on consumer usage of the Insurance Cost Information booklet as a reference tool for purchasing a vehicle.

g. Is the information helpful/useful and why?

h. What changes could be suggested to make the Insurance Cost Information Booklet more useful, informative, simple and understandable to consumers?

<sup>4</sup> 58 FR 12545.

<sup>5</sup> H.R. Rep. No. 112–591 (2012).

<sup>6</sup> 49 U.S.C. 32302(b).

<sup>7</sup> Report to Congress is due 2 years after date of enactment on January 10, 2015.

i. Are there any reliable real-world data or studies available on damage susceptibility and collision loss characteristics of passenger vehicles? Please provide applicable data and source, or other information you believe would be helpful to the agency in determining the best possible information/data available.

j. Are real-world data or studies available relevant to insurance premium differences? Please provide applicable data and source or other information you believe would be helpful to the agency in determining the best possible information/data.

k. What would be the impact of not providing the damage susceptibility and insurance cost information to prospective purchasers of new vehicles?

l. Does the current information provided in the agency's Insurance Cost Information Booklet address the needs of consumers? If so, how? If not, what could the agency do to enhance the information to meet the needs of consumers?

m. Are there any agencies or organizations that would find it useful to provide the damage susceptibility and insurance cost information to its consumers, customers or clients and if so, why?

n. Is the current format for the Insurance Cost Information Booklet simple and understandable? Would you recommend changing the format? If so, how would you recommend it be changed?

o. What would be the best method for distributing this information to consumers?

p. What would be the best way to convey information to consumers about the likelihood of a vehicle being damaged in an accident?

q. Are there any organizations or state agencies that collect the information identified in this notice that NHTSA should be aware of? If so, how do these entities use and/or publish this information?

#### IV. Public Participation

##### *How do I prepare and submit comments?*

Your comments must be written and in English. To ensure that your comments are filed correctly in the docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long (49 CFR 553.21). NHTSA established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit one copy (two copies if submitting by mail or hand delivery) of your comments, including the attachments, to the docket following the instructions given above under **ADDRESSES**. Please note, if you are submitting comments electronically as a PDF file, we ask that the documents submitted be scanned using an Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.

##### *How do I submit confidential business information?*

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Office of the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you may submit a copy (two copies if submitting by mail or hand delivery), from which you have deleted the claimed confidential business information, to the docket by one of the methods given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential

business information, you should include a cover letter setting forth the information specified in NHTSA's confidential business information regulation (49 CFR Part 512).

##### *Will the agency consider late comments?*

NHTSA will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, the agency will also consider comments received after that date.

You may read the comments received at the address given above under **ADDRESSES**. The hours of the docket are indicated above in the same location. You may also see the comments on the Internet, identified by the docket number at the heading of this notice, at <http://www.regulations.gov>.

Please note that, even after the comment closing date, NHTSA will continue to file relevant information in the docket as it becomes available. Further, some people may submit late comments. Accordingly, the agency recommends that you periodically check the docket for new material.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <http://www.dot.gov/privacy.html>.

**Authority:** 49 U.S.C. 32302, delegation of authority at 49 CFR 1.95.

**Christopher J. Bonanti,**

*Associate Administrator for Rulemaking.*

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