

Public Law 100-562
100th Congress

An Act

Oct. 31, 1988
[H.R. 2628]

To amend the National Traffic and Motor Vehicle Safety Act of 1966 respecting the importation of motor vehicles in anticipation of compliance with safety standards under such Act.

Imported
Vehicle Safety
Compliance Act
of 1988.
15 USC 1381
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, REFERENCE.

(a) **SHORT TITLE.**—This Act may be cited as the “Imported Vehicle Safety Compliance Act of 1988”.

(b) **REFERENCE.**—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Traffic and Motor Vehicle Safety Act of 1966.

SEC. 2. CONTROL OF IMPORTATION OF CERTAIN VEHICLES TO ENSURE COMPLIANCE WITH SAFETY STANDARDS.

(a) **REPEAL OF GENERAL AUTHORITY FOR IMPORTATION IN ANTICIPATION OF COMPLIANCE.**—Section 108(b) (15 U.S.C. 1397(b)) is amended by striking out paragraphs (3) and (4) and by redesignating paragraph (5) as paragraph (3).

(b) **LIMITED AUTHORIZATION FOR IMPORTATION IN ANTICIPATION OF COMPLIANCE.**—Section 108 (15 U.S.C. 1397) is amended by redesignating subsection (c) as subsection (k) and by inserting after subsection (b) the following new subsections:

“(c)(1) Except as provided in this subsection and subsections (e), (f), (g), (h), (i), and (j) a motor vehicle offered for importation in violation of subsection (a)(1)(A) shall be refused entry into the United States.

“(2) In the case of any motor vehicle imported under paragraph (3), the person importing the motor vehicle shall furnish to the Secretary of the Treasury (acting on behalf of the Secretary) an appropriate bond and shall comply with such terms and conditions as it appears to the Secretary appropriate to ensure that any such motor vehicle—

“(A) will be brought into conformity with all applicable Federal motor vehicle safety standards prescribed under this title within a reasonable time after such importation, as specified by the Secretary, or

Exports.

“(B) will be exported (at no cost to the United States) by the Secretary of the Treasury or abandoned to the United States. The amount of the bond furnished under this paragraph shall not be less than the dutiable value, as determined by the Secretary of the Treasury, of the motor vehicle with respect to which the bond was furnished, except that the amount of such bond may not exceed 150 percent of such value.

“(3)(A) Subsection (a)(1)(A) and paragraph (1) of this subsection shall not apply to any motor vehicle if—

"(i)(I) the motor vehicle is determined to be substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114, and of the same model year (as defined by regulation by the Secretary) as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards; or

"(II) where there is no substantially similar United States motor vehicle, the Secretary determines that the safety features of the vehicle comply with or are capable of being modified to comply with all applicable Federal motor vehicle safety standards based on destructive test data or such other evidence as the Secretary determines to be adequate,

"(ii) the motor vehicle is imported by an importer registered under subparagraph (D), and

"(iii) the registered importer pays (I) such annual fee as the Secretary establishes to cover the cost of administering the registration program, and (II) such other annual fee or fees as the Secretary reasonably establishes to cover the cost of processing the bond furnished to the Secretary of the Treasury under paragraph (2) and making the determinations under this section.

"(B) The amount or rate of fees under subparagraph (A)(iii) shall be reviewed and, if appropriate, adjusted by the Secretary at least every 2 years. The fee applicable in any fiscal year shall be established by the Secretary before the beginning of such year. All fees collected shall be available until expended, without fiscal year limit, to the extent provided in advance by appropriation Acts, solely for use by the Secretary—

"(i) in the administration of all of the requirements of this subsection (other than subparagraph (E)(iv)) and subsection (d)(2), and

"(ii) to advance to the Secretary of the Treasury amounts for costs that will be incurred under this subsection and to reimburse the Secretary of the Treasury for such costs.

"(C)(i) The Secretary shall make the determination under paragraph (3)(A)(i)—

"(I) on the petition of any registered importer or any manufacturer, or

"(II) on the Secretary's own initiative.

"(ii) The Secretary shall establish by regulation (I) the information required to be provided by the petitioner to clearly show that the vehicle is capable of being brought into compliance with all applicable Federal motor vehicle safety standards and (II) the procedures for considering such petitions. In establishing such procedures, the Secretary shall provide for a minimum period for public notice and written comment consistent with ensuring expeditious, but full, consideration of the petition and avoiding delay by any person. In considering any petition under this subparagraph, the Secretary shall give due consideration to any test data or other information available to the Secretary, including any information provided by the manufacturer (whether or not confidential). If the Secretary makes a negative determination, another petition may not be considered for the same model of motor vehicles until the end of 3 calendar months after such negative determination.

"(iii) The Secretary shall establish by regulation the procedures for determinations made on the Secretary's initiative. Such procedures shall include a minimum period for public notice and written

Regulations.

Regulations.

comment consistent with ensuring expeditious, but full, consideration and avoiding delay by any person. In making a determination under such procedures, the Secretary shall give due consideration to any test data or other information available to the Secretary, including any information provided by the manufacturer (whether or not confidential). If the Secretary makes a negative determination, the Secretary may not make another determination for the same model of motor vehicle until the end of 3 calendar months after such negative determination.

Federal
Register,
publication.

"(iv) The Secretary shall annually publish in the Federal Register a list of all determinations under this subparagraph. Each determination published in the Federal Register shall apply to the same model of motor vehicle with respect to which the determination was made. A positive determination shall be sufficient authority for any other registered importer to import a vehicle of the same model under this subsection provided such registered importer complies with all the terms and conditions of such determination.

"(D)(i) The Secretary shall establish procedures under which the Secretary shall register any person who complies with the requirements of clause (ii) and who has not previously had a registration revoked under clause (iii). The Secretary may deny registration to any person who is or was, directly or indirectly, owned or controlled by, or under common ownership or control with, a person who has had a registration revoked under clause (iii).

Regulations.

Records.

"(ii) In order to acquire and maintain registration under clause (i), an importer shall comply with all requirements which the Secretary shall prescribe by regulation. Such regulation shall include, as a minimum, requirements for recordkeeping, inspection of records and facilities relating to the motor vehicles which such person has imported, modified, or both, and provision for ensuring that the importer (or any successor in interest) will be able technically and financially to carry out the importer's responsibilities under part B of this title (relating to discovery, notification, and remedy of defects).

"(iii) The Secretary shall establish procedures for (I) the revocation or suspension of a registration issued under clause (i) for failure to comply with any requirement of this section or the regulations issued under this section, (II) automatic suspensions of registrations for failure to pay any fee referred to in subparagraph (A)(iii) in a timely manner or for knowingly filing a false or misleading certification under subparagraph (E), and (III) reinstatement of suspended registrations.

"(E)(i) A registered importer shall not release custody of any motor vehicle—

"(I) imported by the registered importer, or

"(II) imported by an individual referred to in subsection (f) and which the registered importer is modifying to meet Federal motor vehicle safety standards,

to any person for license or registration for use on public roads, streets, or highways or license or register an imported motor vehicle for use on public roads, streets, or highways until 30 calendar days after the registered importer certifies to the Secretary, in such form as the Secretary shall require, that such motor vehicle complies with each Federal motor vehicle safety standard which was prescribed under this title in the year that vehicle was manufactured and which applies in such year to such vehicle, except that no such release shall be permitted if the Secretary gives written notice,

before the expiration of such 30 days, that an inspection will be required under clause (iii). If the Secretary gives such notice, such release shall be permitted at any time but only upon the completion of the inspection showing no failure to comply with applicable Federal motor vehicle safety standards for which the inspection was made and the release by the Secretary. The Secretary and the Secretary of the Treasury shall by rule establish procedures to ensure the release of a motor vehicle and bond at the expiration of such 30 days unless the notice under this clause or clause (vi) is issued. Such rule shall provide that, if such notice is issued, the motor vehicle and bond shall be promptly released after the completion of the inspection showing no such failure to comply.

"(ii) In making a certification under clause (i) with respect to safety features of a motor vehicle, the registered importer may rely on the manufacturer's certification for the model for which the motor vehicle involved is substantially similar if the importer certifies that any modification undertaken by the importer did not affect the compliance of the motor vehicle's safety features and the importer retains records verifying such certification for such period as the Secretary shall prescribe.

Records.

"(iii) The Secretary may require that such certification be accompanied by such evidence of compliance as the Secretary considers appropriate or that the certified motor vehicle be inspected by the Secretary, or both.

"(iv) The Secretary shall periodically inspect a representative number of motor vehicles for which certifications have been filed under clause (i). In conducting any program under this title for the testing of motor vehicles, the Secretary shall include a representative number of vehicles for which certifications have been filed under clause (i).

"(v) Any release of a bond required under paragraph (2) shall constitute acceptance of any certification or completion of an inspection but not a determination by the Secretary under section 152 of compliance with all applicable Federal motor vehicle safety standards.

"(vi) Notwithstanding clause (i), no motor vehicle or bond may be released if the Secretary believes or has reason to believe that a certification made under clause (i) is false or contains any misrepresentation and the Secretary gives written notice of such belief or reason to believe to the registered importer before the expiration of 30 days after the date such certification is received by the Secretary. If such notice is provided, the motor vehicle involved and the bond required for the motor vehicle involved may not be released until the Secretary is satisfied with the certification and any modification thereof.

Fraud.

"(vii) Each registered importer shall include on each motor vehicle released by it under this subsection a label, in such form as the Secretary may prescribe, on which the registered importer is identified and which states that the vehicle has been modified by such importer to comply with all applicable Federal motor vehicle safety standards for that model.

"(d)(1) For purposes of part B of this title (relating to discovery, notification, and remedy of motor vehicle defects)—

"(A) in the case of any defect or failure to comply with any applicable Federal motor vehicle safety standard in, or regarding, any motor vehicle which was originally manufactured for importation to the United States, any imported motor vehicle

that has a valid certification under subsection (c)(3)(E) and that is determined to be substantially similar to such motor vehicle shall be treated as having the same defect or failure unless the manufacturer or registered importer demonstrates otherwise to the Secretary,

Federal
Register,
publication.

“(B) the Secretary shall publish in the Federal Register notice of the defect or failure referred to in subparagraph (A), and

“(C) the registered importer shall be treated as the manufacturer with respect to any motor vehicle that it—

“(i) imports, or

“(ii) brings into conformity with applicable Federal motor vehicle safety standards on behalf of an individual under subsection (f).

Regulations.

“(2) The Secretary shall, by regulation, require each registered importer (and any successor in interest) to provide and maintain evidence, satisfactory to the Secretary, of sufficient financial responsibility to meet its obligations under part B of this title (relating to discovery, notification, and remedy of motor vehicle defects).

“(e) Subsections (a)(1)(A) and (c)(1) shall not apply to any motor vehicle or item of motor vehicle equipment if—

“(1) the motor vehicle or item of equipment requires further manufacturing to perform its intended function (as determined under regulations prescribed by the Secretary), and

“(2) it is accompanied at the time of entry by a written statement which is issued by the manufacturer of the incomplete motor vehicle or item of equipment which indicates the applicable Federal motor vehicle safety standard with which such motor vehicle or item is not in compliance.

“(f)(1) Subsections (a)(1)(A) and (c)(1) shall not apply to any motor vehicle that is imported—

“(A) after the effective date of the regulations initially issued to implement the amendments made to this section by the Imported Vehicle Safety Compliance Act of 1988, and

“(B) for personal use, and not for purposes of resale, by any individual (other than an individual described in subsections (g) and (h)), if that individual takes the actions required by paragraph (2).

“(2) To receive an exemption under paragraph (1) an individual shall—

“(A) furnish to the Secretary of the Treasury (acting on behalf of the Secretary)—

“(i) an appropriate bond in an amount determined under subsection (c)(2),

Contracts.

“(ii) a copy of a contract or other agreement with an importer registered under subsection (c) for bringing such vehicle into conformity with applicable Federal motor vehicle safety standards, and

“(iii) a certification that such vehicle meets the requirement set forth in clause (i) (I) or (II) of subsection (c)(3)(A), and

“(B) comply with such terms and conditions as the Secretary shall impose as being appropriate to ensure that such motor vehicle—

“(i) will be brought into conformity with all applicable Federal motor vehicle safety standards within a reasonable time, as specified by the Secretary, after such importation, or

“(ii) will be exported (at no cost to the United States) by the Secretary of the Treasury or abandoned to the United States. Exports.

The Secretary, for good cause shown, may allow an individual additional time, but not more than 30 days after the day on which the motor vehicle is offered for importation, to comply with subparagraph (A)(ii).

“(g) Subsections (a)(1)(A) and (c)(1) shall not apply to any motor vehicle if the motor vehicle is imported for personal use, and not for purposes of resale, by any individual (including any member of the uniformed services)—

“(1) whose assigned place of employment is outside the United States as of the date of the enactment of the Imported Vehicle Safety Compliance Act of 1988, and who has not had an assigned place of employment in the United States between that date and the date of entry of such motor vehicle,

“(2) who has not previously imported a motor vehicle into the United States under the authority of this subsection (or subsection (b)(3) with respect to periods before the date of the enactment of the Imported Vehicle Safety Compliance Act of 1988),

“(3) who had acquired (or had entered into a binding contract to acquire) such motor vehicle before the date of enactment of this subsection,

“(4) who enters such motor vehicle not later than 4 years after such date of enactment, and

“(5) who meets the terms, conditions, and other requirements in effect under subsection (b)(3) on the day before the date of the enactment of this subsection.

Paragraphs (1) through (5) shall be carried out by certification in such form as either the Secretary or the Secretary of the Treasury may prescribe. As used in this subsection, the term ‘assigned place of employment’ means the principal location at which an individual is permanently or indefinitely assigned to work. In the case of a member of the uniformed services, such term means the individual’s permanent duty station.

“(h) Subsections (a)(1)(A) and (c)(1) shall not apply to any motor vehicle if the motor vehicle is imported on a temporary basis for personal use by any individual—

“(1) who is (A) a member of the personnel of a foreign government on assignment in the United States or a member of the Secretariat of a public international organization so designated under the International Organization Immunities Act, and (B) within the class of persons for whom free entry of motor vehicles has been authorized by the Secretary of State, or

“(2) who is a member of the armed forces of a foreign country on assignment in the United States.

The Secretary or the Secretary of the Treasury may require such verification of such status as the Secretary considers appropriate. The Secretary shall ensure that any motor vehicle entered under this subsection will be exported (at no cost to the United States) or abandoned to the United States when the individual involved ceases to reside in the United States and hold such status. No motor vehicle imported under this subsection may be sold while within the United States. Exports.

“(i) Subsections (a)(1)(A) and (c)(1) shall not apply to any motor vehicle that is 25 or more years old.

Research and
development.
Racing.

“(j) The Secretary may exempt any motor vehicle or item of motor vehicle equipment from subsections (a)(1)(A) and (c)(1) upon such terms and conditions as the Secretary may find necessary solely for the purpose of research, investigations, studies, demonstrations or training, or competitive racing events.”.

(c) **MANUFACTURER'S CERTIFICATION REQUIRED.**—Section 108(a)(1)(A) (15 U.S.C. 1397(a)(1)(A)) is amended by inserting after “conformity with such standard” the following: “and is covered by a certification issued under section 114.”.

(d) **TECHNICAL AMENDMENTS.**—Section 108(a)(1)(A) (15 U.S.C. 1397(a)(1)(A)) is amended by striking out “subsection (b) of”.

(e) **EFFECTIVE DATE, NOTICE, REVIEW, REPORT.**—

(1) **EFFECTIVE DATE.**—

(A) **GENERAL RULE.**—

(i) Except as provided in clause (ii), the amendments made by this section shall take effect upon the expiration of 15 months after the date of the enactment of this Act, except that the Secretary of Transportation may after the effective date of regulations promulgated under subparagraph (B)—

(I) register persons under section 108(c)(3)(D) of the National Traffic and Motor Vehicle Safety Act of 1966, as added by subsection (b) of this section, and

(II) receive petitions and make determinations of motor vehicle similarity under section 108(c)(3)(C) of the National Traffic and Motor Vehicle Safety Act of 1966, as added by subsection (b) of this section.

(ii) The amendments made by this section shall take effect upon the expiration of 12 months after the date of the enactment of this Act if the Secretary of Transportation does not issue a notice of proposed rule-making under subparagraph (B) within 6 months of the date of enactment of this Act.

(B) **REGULATIONS.**—Not later than 12 months after the date of the enactment of this Act, the Secretary of Transportation shall promulgate and place in effect regulations to implement subsections (c) through (j) of section 108 of the National Traffic and Motor Vehicle Safety Act of 1966, as added by subsection (b) of this section.

(C) **REVIEW.**—If upon judicial review of the regulations of the Secretary promulgated under subparagraph (B) the court stays the regulations, the amendments made by this section shall not take effect for any person—

(i) during such stay, or

(ii) until such regulations become final.

(2) **NOTICE.**—As soon as possible after the date of the enactment of this Act, the Secretary of Transportation shall take reasonable steps designed to encourage notification to the extent feasible regarding the provisions of subsections (f), (g), and (h) of section 108 of such Act (as added by this section) to be promptly made to individuals who may be affected by such amendments.

(3) **GAO REVIEW.**—The Comptroller General of the United States shall conduct a review of the program authorized by the amendments made by this section. The review shall be based on

15 USC 1397
note.

not more than 3 years of experience under the program and shall consider all aspects of the program with emphasis on—

(A) the extent to which motor vehicles imported under the program are fully in compliance with applicable Federal motor vehicle safety standards when released to operate on public roads, streets, and highways,

(B) whether safety considerations warrant extension of the program, and

(C) the administration and enforcement of the program (including actions relating to discovery, notification, and remedy of defects required by such program and the adequacy of the fees) by the Secretary of Transportation.

Promptly upon the completion of the review the Comptroller General shall submit a report on the review to Congress.

Reports.

(4) **REPORT.**—Not later than 18 months after the initial regulations required after this section are promulgated, the Secretary shall provide to Congress a report of the actions taken under this section and the effectiveness of such actions, including the results of any testing by the Secretary under this section. Thereafter, the Secretary shall report by July of each year on such actions.

(f) **EXEMPTIONS PROHIBITED.**—Notwithstanding any provision of law authorizing exemptions from energy conservation requirements for manufacturers of fewer than 10,000 motor vehicles, a registered importer under section 108(c) of the National Traffic and Motor Vehicle Safety Act of 1966 shall not be treated as such a manufacturer for purpose of such exemptions with respect to any motor vehicle that it—

15 USC 1397
note.

(1) imports, or

(2) brings into conformity with applicable Federal motor vehicle safety standards on behalf of an individual under section 108(f) of such Act.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 2628:

HOUSE REPORTS: No. 100-431 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD:

Vol. 133 (1987): Dec. 14, considered and passed House.

Vol. 134 (1988): Oct. 5, considered and passed Senate, amended.

Oct. 12, House concurred in Senate amendments.