

115TH CONGRESS
2D SESSION

S. 3344

To enhance the early warning reporting requirements for motor vehicle manufacturers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2018

Mr. MARKEY (for himself and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To enhance the early warning reporting requirements for motor vehicle manufacturers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Early Warning Report-
5 ing System Improvement Act of 2018”.

6 **SEC. 2. ADDITIONAL EARLY WARNING REPORTING RE-**
7 **QUIREMENTS.**

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

10 (1) in paragraph (3)—

1 (A) in subparagraph (C)—

2 (i) by striking “The manufacturer”
3 and all that follows through “shall report”
4 and inserting the following:

5 “(i) IN GENERAL.—The manufacturer
6 of a motor vehicle or motor vehicle equip-
7 ment, including the manufacturer of an
8 autonomous vehicle or an autonomous ve-
9 hicle driving system, shall report”; and

10 (ii) by adding at the end the fol-
11 lowing:

12 “(ii) INCIDENTS WITH INJURIES OR
13 FATALITIES.—If an incident described in
14 clause (i) involves a serious injury or fatal-
15 ity, the Secretary shall require the manu-
16 facturer to submit, as part of the incident
17 report under clause (i)—

18 “(I) each initial claim or notice
19 document that notified the manufac-
20 turer of the incident;

21 “(II) any police reports or other
22 documents describing or recon-
23 structing the incident;

1 “(III) any amendments or sup-
 2 plements to the documents described
 3 in subclause (I), except—

4 “(aa) medical documents
 5 and bills; and

6 “(bb) property damage in-
 7 voices or estimates; and

8 “(IV) the assessment of the man-
 9 ufacturer of the circumstances that
 10 led to the incident, including the anal-
 11 ysis of the manufacturer with respect
 12 to the claims or notices with respect
 13 to allegations of a defect.

14 “(iii) REPORTING REQUIREMENTS.—
 15 Notwithstanding section 579.21 of title 49,
 16 Code of Federal Regulations (or a suc-
 17 cessor regulation), no report under this
 18 subsection shall be limited by model year.”;
 19 and

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

21 “(D) SETTLEMENTS.—Notwithstanding
 22 any order entered in a civil action restricting
 23 the disclosure of information, a manufacturer of
 24 a motor vehicle or motor vehicle equipment
 25 shall comply with the requirements of this sub-

1 section and any regulation promulgated under
2 this subsection.”;

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

5 “(C) DISCLOSURE.—

6 “(i) IN GENERAL.—The information
7 provided to the Secretary pursuant to this
8 subsection—

9 “(I) shall be disclosed publicly
10 unless—

11 “(aa) exempt from disclo-
12 sure under section 552(b) of title
13 5, subject to clause (ii); or

14 “(bb) the information is sub-
15 ject to an order entered in a civil
16 action restricting the disclosure
17 of information; and

18 “(II) shall be entered into a pub-
19 lic early warning reporting database
20 established by the Secretary in a man-
21 ner that is searchable by manufac-
22 turer name, vehicle or equipment
23 make and model name, model year,
24 and type of potential defect.

1 “(ii) INAPPLICABILITY OF CONFIDEN-
 2 TIALITY PROVISIONS.—In administering
 3 clause (i)(I), the Secretary shall not con-
 4 sider section 552(b)(4) of title 5 to prevent
 5 the public disclosure of—

6 “(I) production information re-
 7 garding passenger motor vehicles;

8 “(II) information on incidents in-
 9 volving death or serious injury;

10 “(III) numbers of property dam-
 11 age claims; or

12 “(IV) aggregated numbers of
 13 consumer complaints.”; and

14 (3) by adding at the end the following:

15 “(6) USE OF EARLY WARNING REPORTS.—The
 16 Secretary shall consider information gathered under
 17 this section in proceedings described in sections
 18 30118 and 30162.”.

19 (b) REGULATIONS.—To promote the public avail-
 20 ability of information provided to the Secretary under sub-
 21 section (m) of section 30166 of title 49, United States
 22 Code, and the utility of that information to inspection and
 23 investigation activities conducted by the Secretary under
 24 that section, not later than 2 years after the date of enact-
 25 ment of this Act, the Secretary of Transportation shall

1 promulgate regulations to carry out this section and the
2 amendments made by this section.

3 (c) NULLIFICATION OF EARLY WARNING REPORTING
4 CLASS DETERMINATION REGULATIONS.—On the effective
5 date of the regulations promulgated under subsection (b),
6 the regulations with respect to early warning reporting
7 class determinations contained in appendix C of part 512
8 of title 49, Code of Federal Regulations (as in effect on
9 that date), shall have no force or effect.

10 **SEC. 3. IMPROVED NATIONAL HIGHWAY TRAFFIC SAFETY**
11 **ADMINISTRATION VEHICLE SAFETY DATA-**
12 **BASES.**

13 (a) IN GENERAL.—Not later than 2 years after the
14 date of enactment of this Act, and after consultation with
15 frequent users of publicly available databases of the Sec-
16 retary of Transportation (referred to in this section as the
17 “Secretary”), the Secretary shall improve public accessi-
18 bility to information on the publicly accessible vehicle safe-
19 ty databases of the National Highway Traffic Safety Ad-
20 ministration by revising the publicly accessible vehicle
21 safety databases—

22 (1) to improve organization and functionality,
23 including design features such as drop-down menus;

1 (2) to allow for data from all of the publicly ac-
2 cessible vehicle safety databases to be searched, sort-
3 ed, aggregated, and downloaded in a manner—

4 (A) consistent with the public interest; and

5 (B) that facilitates easy use by consumers;

6 (3) to provide greater consistency in presen-
7 tation of vehicle safety issues;

8 (4) to improve searchability about specific vehi-
9 cles and issues through standardization of commonly
10 used search terms and the integration of databases
11 to enable each of the databases to be simultaneously
12 searched using the same keyword search function;
13 and

14 (5) to ensure that each document, study, inves-
15 tigation, inspection, incident report, and other mate-
16 rials related to an incident that are created or ob-
17 tained by the National Highway Traffic Safety Ad-
18 ministration are made publicly available in a timely
19 manner that is searchable in databases by—

20 (A) manufacturer name, vehicle or equip-
21 ment make and model name, and model year;

22 (B) type of potential defect;

23 (C) number of injuries or fatalities; and

24 (D) any other element that the Secretary
25 determines to be in the public interest.

1 (b) INSPECTION AND INVESTIGATION INFORMA-
2 TION.—The Secretary shall—

3 (1) provide public notice of each inspection or
4 investigation activity conducted by the Secretary
5 under section 30166 of title 49, United States Code;
6 and

7 (2) make each notice described in paragraph
8 (1), each written response by a manufacturer to
9 such a notice, and each notice of any enforcement
10 action or other action taken as a result of an inspec-
11 tion or investigation described in that paragraph—

12 (A) available to consumers on the Internet
13 not later than 5 days after the notice is issued;
14 and

15 (B) searchable by manufacturer name, ve-
16 hicle or equipment make and model name,
17 model year, system or component, and the type
18 of inspection or investigation being conducted.

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