



Statement of

Ami V. Gadhia

Senior Policy Counsel

Consumers Union

Before the

Subcommittee on Commerce, Manufacturing, and Trade

of the House Energy and Commerce Committee

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Chairmen Upton and Bono-Mack, Ranking Members Waxman and Butterfield, and members of the Subcommittee, thank you for the opportunity to testify on the passenger vehicle safety provisions in the surface transportation bill recently passed by the Senate. My name is Ami Gadhia, Senior Policy Counsel with Consumers Union (CU), the public policy and advocacy arm of *Consumer Reports*®.<sup>1</sup>

CU believes that the vehicle safety provisions passed by the Senate as a part of its surface transportation bill will provide the U.S. National Highway Traffic Safety Administration (NHTSA) with critical new authorities to help promote consumer vehicle safety. This bill, the “Moving Ahead for Progress in the 21<sup>st</sup> Century Act (“MAP-21”, or S. 1813), includes language that gives NHTSA additional tools to help reduce injuries and fatalities on our roadways, and to help make cars safer. My testimony will highlight the benefits of some of these provisions.

However, CU also believes that there are ways in which the Senate language can be further strengthened to address certain critical consumer safety issues, and urges the House to include these additional provisions in its own bill. I will address these additional needed provisions in my testimony as well.

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<sup>1</sup> Consumers Union is the public policy and advocacy division of Consumer Reports. Consumers Union works for telecommunications reform, health reform, food and product safety, financial reform, and other consumer issues. Consumer Reports is the world’s largest independent product-testing organization. Using its more than 50 labs, auto test center, and survey research center, the nonprofit rates thousands of products and services annually. Founded in 1936, Consumer Reports has over 8 million subscribers to its magazine, website, and other publications.

## **I. IMPORTANT VEHICLE SAFETY PROVISIONS IN SENATE-PASSED BILL**

We support the requirement that NHTSA issue rules regarding vehicle stopping distance, brake override, and pedal placement.<sup>2</sup> CU has recommended the issuance of safety standards in these areas for several years<sup>3</sup>, and believes that their adoption will provide important safety features in passenger vehicles.

Another important section in the Senate-passed bill would give NHTSA the ability to study and promulgate new rules regarding electronic systems in cars. The unintended acceleration concerns that caught everyone's attention in 2010 demonstrated that NHTSA needs to improve significantly its abilities to identify, diagnose, and act upon electronics issues in passenger vehicles in order to protect consumer safety. We are glad to see a proposal to establish a Council for Vehicle Electronics, Vehicle Software, and Emerging Technologies, and a proposal to require NHTSA to set a performance standard for electronic systems in cars.

We also support the provisions for grants to states that enact and enforce anti-distracted driving laws and graduated drivers' licensing laws for teenagers.

We also strongly support a requirement that NHTSA prioritize the setting of new safety standards for car seats for children, as well as prioritize performing new research into emerging child safety concerns.

CU applauds provisions making improvements to NHTSA's public database of consumer safety reports. This database, administered by NHTSA's Office of Defects Investigation, is a vital tool for the agency, automakers, safety advocates, and the public to identify emerging hazard trends; this tool in turn can help save lives. However, this database has not been as

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<sup>2</sup> We understand that NHTSA has recently put out for comment a proposed rule on pushbutton ignitions.

<sup>3</sup> "Consumers Union calls for changes to strengthen U.S. car-safety net," available at <http://news.consumerreports.org/cars/2010/02/consumers-union-calls-for-changes-to-strengthen-us-carsafety-net.html>.

consumer-friendly or as organized as it could be. The Senate-passed bill changes this by requiring NHTSA to: improve the database's organization and functionality; allow data to be searched, aggregated, and downloaded; improve consistency of presentation of vehicle safety issues; and improve searchability through standardization of commonly used search terms. Consumers will also benefit if NHTSA makes vehicle recall information available on the web, and if the agency makes this recall information searchable by make, model, and vehicle identification number (VIN). All of these changes will make a big difference for consumers seeking information about the safety of the cars they own or plan to purchase.

An improved NHTSA database will also allow *Consumer Reports*® to more thoroughly analyze and publish this analysis of consumer complaints. Through easier data access, *Consumer Reports*® and other independent groups like ours could do more to support NHTSA by flagging any spikes we see in problems with specific vehicles. Such information would be useful for the agency and car owners/buyers, as well as automakers.

Recall efficacy is another important issue. After an auto manufacturer and NHTSA have done their part and issued a recall notice for a non-compliant or defective vehicle or part, consumers have a critical safety role to play in ensuring that recall-related repairs are completed in a timely way. However, according to NHTSA, the average consumer response rate to vehicle recalls is roughly 70 percent.<sup>4</sup> Giving NHTSA the authority to require manufacturers to issue additional recall notices if the first one is insufficient can help improve recall repair rates. Permitting NHTSA to order the manufacturer to take additional steps to locate and notify each individual registered as the owner or lessee or the most recent purchaser or lessee, and to order

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<sup>4</sup> See "AUTO SAFETY: NHTSA Has Options to Improve the Safety Defect Recall Process," U.S. Government Accountability Office, June 2011. Available at: <http://www.gao.gov/assets/320/319698.pdf>.

the manufacturer to emphasize the magnitude of the safety risk posed, in such an additional notification, can also help improve recall completion rates, thereby helping to make our roads safer.

We also support making data gathered under NHTSA's "Early Warning Reporting" (EWR) system available to the public. Manufacturers are required by the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act to report claims data on serious injuries, warranty data, property damage for alleged defects, customer satisfaction campaigns, consumer advisories and other similar information to NHTSA. That information is given to NHTSA via the EWR system.<sup>5</sup> But only the tallies for fatalities, injuries and property damage and production numbers are currently made public under the EWR system; consumer complaints to the manufacturer are currently kept confidential. We have previously recommended that consumer complaint numbers submitted by manufacturers to NHTSA under the EWR system should be made public by NHTSA and should be easily searchable. Bringing this information out of the dark means that it can be used to help improve auto safety.

In addition, it is important to make it easier for consumers to report vehicle defects and safety problems to NHTSA by including instructions to that effect in the vehicle owner's manual. *Consumer Reports*® has long encouraged consumers to report major safety problems both to NHTSA and to the car's manufacturer. Dealers should also do their part by educating new owners about the complaints program, and encouraging them to report problems. The more public complaints there are to analyze, the greater the chance that serious problems can be identified at an early stage.

Event data recorders (EDRs) are devices in cars that record data such as vehicle speed and differential velocities, throttle position, air-bag deployment, brake application, and safety

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<sup>5</sup> See: <http://www-odi.nhtsa.dot.gov/ewr/qb/documents/NHTSA-ODI-EWR-Facts.pdf>

belt usage in the event of a car crash. Requiring EDRs in all new cars from MY 2015 onwards, with appropriate privacy controls and disclosures, will therefore mean that more of these data can help police and accident investigators reconstruct what happened in a crash. Pursuant to the Senate-passed bill, NHTSA will also be required to modify the EDR regulation to require the retrieval of the EDR data on commercially available equipment in a specified data format. Previously, both NHTSA and other investigative or public safety personnel have been hampered in their work by the need for proprietary retrieval tools to access EDR data.

Finally, in the event that a manufacturer violates the law, raising the maximum civil penalty that NHTSA could levy for violations from \$17 million to \$250 million will help act as a deterrent against future violations that imperil public safety. While the \$250 million figure is the outermost limit of what NHTSA could possibly fine a company for a series of violations, this cap can help ensure that violations do not become a “cost of doing business” for a large, multi-billion dollar company.

## **II. SAFETY PROVISIONS THAT SHOULD BE STRENGTHENED IN OR ADDED TO HOUSE VEHICLE SAFETY LEGISLATION**

As noted above, while we are happy to see several of our recommendations make it into the Senate-passed bill, there are additional elements that are missing that we urge the Committee to take up as it considers surface transportation legislation.

First, as CU has discussed since the unintended acceleration concerns arose in 2010, NHTSA should mandate intuitive, clearly labeled transmission shifters in all new cars. If a car is accelerating out of control, our engineers have advised that hitting the brakes and shifting into Neutral is a driver’s best strategy. However, the advent of gated and electronic shifters can make

finding Neutral difficult if the driver is in a panic. Shifters should be designed so that a driver can quickly identify the Neutral position and easily shift gears to regain control.

There are also additional improvements needed in the child safety seat standards that NHTSA administers. CU recommends that the agency revise Federal Motor Vehicle Safety Standard (FMVSS) 225 (regarding child restraint anchors and tethers, or LATCH), to allow them to be used up to at least 65 pounds. While we understand that NHTSA has initiated a research program to look into weight limits for LATCH use, we urge the agency promptly initiate a final rulemaking so that FMVSS addresses the use of LATCH for child safety seats to be used with higher-weight children.

We next urge the House to include in its surface transportation legislation language requiring rental car companies to make any recall-related repairs before they rent cars to consumers. There are 1.6 million rental vehicles, including car-sharing, in service in the United States.<sup>6</sup> However, rental companies are not currently required to ground a vehicle subject to a recall – sometimes with deadly consequences.<sup>7</sup> Consumers are at the mercy of the rental car company when picking up a car, and rely on the company to provide a safe, up-to-date vehicle. Consumers are not able to research the recall history of a rental vehicle the same way they would a vehicle they wish to purchase, since the rental vehicle is often selected for them by the rental car company right before pickup. By way of contrast, new car dealers are required by law to conduct recall-related repairs prior to selling a vehicle. We therefore urge the House to close this loophole and require rental car companies to follow the same rules currently followed by new-car dealers.

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<sup>6</sup> <http://www.acra.org.com/2012/02/facts-about-auto-safety-recalls-and-rental-cars/>

<sup>7</sup> “Enterprise Rent-A-Car admits negligence in crash that killed Santa Cruz sisters,” available at [http://www.santacruzsentinel.com/ci\\_15348018](http://www.santacruzsentinel.com/ci_15348018).

Regarding distracted driving, NHTSA is currently in the process of finalizing its guidelines for manufacturers regarding “in-car” distractions, such as the streams of textual information that appear on dashboard screens. CU is pleased to see the development of these guidelines. However, in order to ensure the widest application of these guidelines, CU recommends that the guidelines be incorporated into NHTSA’s New Car Assessment Program (NCAP). Once made a part of the NCAP, in-car distractions could be evaluated on a star-rating system, like other critical safety features, and consumers could utilize the ratings as they make purchasing decisions.

In addition, we would like to see the vehicle safety provisions of the surface transportation bill address seat back strength. CU believes that this standard needs updating, especially as manufacturers try to decrease the weight of vehicles.

CU would also like to see vehicle roof strength requirements strengthened. Specifically, we would also like to see a dynamic rollover test, not simply a static roof crush test as is currently the case. A static test gives us an idea of how strong a car’s roof is, but it does not tell us anything about the dynamics of the occupants in the vehicle in a rollover. Many fatalities occur when the occupants hit their heads on the roof of the car or on the ground once the car has rolled over, even though the roof has not deformed. CU therefore recommends that NHTSA adopt a test that would evaluate the complete vehicle system – as the agency does in frontal and side crash tests – so credit can be given for seat belt pretensioners and side airbags that deploy in a rollover to help keep the occupant in the seat and away from impact with either the roof of the car or the ground.

Further, while we appreciate the improvements that are to be made to the NHTSA public consumer complaint database, we believe that the data provided by the consumer complaint

database and the agency's Early Warning Reporting (EWR) system should be integrated, so as to make it easier for investigators to spot issues and for consumers to find useful safety information. Consumers should not have to visit different site sections to see all of this information, or be forced to search it using tools that are less than user-friendly. All complaint information should be visible via a single consumer-facing site. And this service must include intuitive tools that allow users to easily find information for particular models and compare vehicle safety records.

Finally, we note that portions of the Senate-passed bill would give NHTSA an "out" if the agency is not able to meet its deadlines for rulemakings or if it deems that there is no need for a rulemaking on a particular matter pursuant to 49 U.S.C. 30111.<sup>8</sup> CU feels that such language will only serve to delay – or permanently prevent – the agency from taking final action on critical auto safety measures. We urge the House to remove such language from its vehicle safety provisions, should they take them up.

### **III. CONCLUSION**

The recently-passed Senate surface transportation bill contains a number of provisions that will help make cars safer for consumers. As the House moves forward with consideration of its own surface transportation bill, CU urges you to include those provisions in its own legislation, as well as to include additional provisions that will make even greater strides for safety. We thank the Committee for the opportunity to present our recommendations, and look forward to assisting you as you move forward.

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<sup>8</sup> "Motor Vehicle Safety: Standards and Compliance," Title 49 *U.S. Code* 30111.