

July 21, 2010

The Hon. Henry Waxman, Chairman  
Energy and Commerce Committee  
U.S. House of Representatives  
Washington, D.C. 20515

The Hon. Joe Barton, Ranking Member  
Energy and Commerce Committee  
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Dear Chairman Waxman and Ranking Member Barton:

As leaders of major consumer, safety and health organizations, we strongly support the Motor Vehicle Safety Act of 2010, H.R. 5381. The House of Representatives has held 7 hearings on sudden acceleration in Toyota vehicles and the subject has been aired in hearings on the agency budget before the Appropriations Committee as well. At least 93 deaths may be associated with the defect, thousands of consumer complaints have been filed and millions of vehicles have been recalled.

We heard riveting accounts from individuals and families whose Toyota vehicles suddenly, unexpectedly and uncontrollably accelerated up to 100 mph through no fault of the driver. The hearings highlighted public concern and dismay about insufficient vehicle safety design and lax government oversight, identified critical legal loopholes, regulatory deficiencies and funding shortfalls.

We support H.R. 5381 because it takes a comprehensive approach that will directly address the fundamental safety problems and systemic oversight issues that have been brought to light. The legislation addresses all of these problems and when enacted will protect consumers. Just a few of the many important safety improvements in the bill that we support are highlighted below.

**Improved Safety Standards:**

H.R. 5381 includes essential requirements to upgrade the federal motor vehicle safety standards governing accelerator control systems (Section 103) and a brake override system (Section 102) in order to ensure that electronic throttle controls operate safely and provide a fail-safe mechanism to prevent vehicle sudden acceleration.

New motor vehicles are highly dependent on electronics to operate most vehicle systems including safety systems, yet currently there is no minimum safety performance standard to ensure that vehicle electronics provide adequate performance to support safety-based systems. Because motor vehicle safety systems may not be able to perform properly if the electronic systems on which they rely fail or are inadequate, the bill includes a provision (Section 105) that requires consideration of the need to establish such a standard.

Event data recorder (EDR) crash information is an invaluable resource for improving traffic safety. Objective data on vehicle performance before and during a crash can provide helpful insights into crash causation and possible safety countermeasures. At present, different types of EDRs are voluntarily installed by manufacturers in most but not all new motor vehicles. The bill (Section 107) would require EDRs in all vehicles and enhance data gathering and uniformity, while at the same time guaranteeing that vehicle owners and lessees have ownership of the EDR data and that their privacy rights are protected even when the data is used for safety research.

The provision on commercial motor vehicle rollover prevention (Section 109) will advance large truck safety by applying similar technology that is already required on passenger vehicles. Rollover is a major safety problem for large trucks that involves not only deaths and injuries but also results in traffic congestion and high costs for delays, incident response and freight cleanup.

### **Improved Safety Oversight:**

H.R. 5381 improves the early warning information process (Section 201), originally provided for in the TREAD Act, by making the information more transparent and providing public access to non-confidential defect reports and information. It also makes long-overdue improvements to the consumer vehicle safety database (Section 202).

The bill also includes reasonable measures to make corporations and officers civilly liable for their acts or omissions. The potential imposition of a civil fine is intended to hold senior corporate officials accountable for safety-related information they submit to the government that is later proven to have been knowingly and willfully false, misleading or incomplete (Section 205). Corporate officials who engage in such conduct can be assessed a civil fine of \$5,000 a day to a maximum of \$5 million. Likewise, the increase in civil penalties to \$25,000 a day to a maximum cap of \$200 million, (Section 402), for violations of critical statutory safety provisions are reasonably calculated to ensure that corporate officials and large corporations act responsibly.

Another important provision to improve transparency and public involvement in safety defect issues restores the right of people to seek redress in federal court if they believe that NHTSA has illegally denied their petition to open a defect proceeding (Section 206). This right existed for 20 years and while it was rarely used one challenge led to a landmark court decision on what constituted a safety defect.

We support the need to tighten the ethics requirements for former NHTSA employees (Section 209). The potential for conflicts of interest and undue influence are too great not to require the highest ethical standards to apply for agency employees and officials who find new employment. Finally, authorizing NHTSA to take immediate action by declaring an imminent hazard (Section 402), provides the agency with the authority to protect the public from immediate and imminent safety threats, the same type of authority that is possessed by numerous other safety and health agencies.

### **Agency Resources and Funding:**

NHTSA is responsible for 95 percent of surface transportation deaths and 99 percent of injuries but is allocated only about one percent of the U.S. Department of Transportation budget. Past budget cuts and limited increases over the years have drastically reduced the NHTSA's workforce and its ability to initiate safety programs. The motor vehicle safety program for the entire country is now funded at a paltry \$132 million dollars. Even within the overall agency budget, less than one-sixth of its funding is currently dedicated to motor vehicle safety programs. The rest is dedicated to highway safety and grants to states. In order to ensure future improvements in traffic safety, to prevent defect problems from recurring and to protect recent gains in fatality reductions, it is essential that the NHTSA receive a major increase in budget authorization and funding. For these reasons we support the increase in NHTSA's authorization levels (Section 302) for fiscal years 2011 through 2013.

We also support the need to offset the increase in budget authority by the collection of a very modest safety user fee (Section 301). User fees are a common method of helping defray the cost of programs, including national park entry fees, highway tolls, commercial motor vehicle user fees, and fees for Food and Drug Administration drug approvals. Funding national safety programs that result from motor vehicle crashes through a \$9 per vehicle charge (after three years), which amounts to just three ten-thousandths of the cost of a new \$30,000 vehicle, is both reasonable and practical and imposes no appreciable cost on vehicle manufacturers. The safety fee amount is minimal compared to company charges for optional equipment, and when considered in contrast to the claim by Toyota employees who brag about saving \$100 million by maneuvering to avoid a sudden acceleration recall. For consumers, this safety fee is about the cost of a single ticket to a new movie. Vehicle purchasers pay far higher fees for vehicle registration, inspection and new vehicle delivery charges. In addition, State lemon laws have similar modest fees that ensure consumers receive lemon protection. The Section 301 fee ensures consumers get safety protection by adequately funding NHTSA regulation of the auto industry.

### **Federal Preemption:**

Finally, we support the restriction on the interpretation of federal preemption law by Department of Transportation agencies. Although NHTSA and other modal administrations are experts regarding the program functions they carry out, they are not expert at rendering legal views on federal preemption of state judicial rights, a role best left to the courts.

In the past, Congress has taken action when the government safety agency and the auto industry were slow to recognize and react to safety needs and problems. In legislation such as **SAFETEA-LU** (Safe, Accountable, Flexible, Efficient, Transportation Equity Act – A Legacy for Users) in 2005, the **TREAD Act** (Transportation Recall Enhancement, Accountability, and Documentation) of 2000, and the 1991 **ISTEA** (Intermodal Surface Transportation Efficiency Act of 1991), Congress led by example and displayed leadership in advancing the national highway and motor vehicle safety agenda. The Motor Vehicle Safety Act of 2010 continues this approach and American families will be safer when this bill is enacted.

Sincerely,

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President of Public Citizen, Emeritus

Clarence Ditlow  
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Jack Gillis  
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