

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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MEMORANDUM

April 12, 2016

To: Subcommittee on Commerce, Manufacturing, and Trade Democratic Members and Staff

Fr: Committee on Energy and Commerce Democratic Staff

Re: Hearing on “NHTSA Oversight”

On **Thursday, April 14, 2016, at 10:00 a.m. in room 2123 of the Rayburn House Office Building**, the Subcommittee on Commerce, Manufacturing, and Trade will hold a hearing titled “NHTSA Oversight.”

I. BACKGROUND

The National Highway Traffic Safety Administration (NHTSA) was established in 1970 with the mission of reducing deaths, injuries, and economic losses resulting from motor vehicle crashes.¹ The agency carries out its mission through education, research, safety standards, and enforcement activities.² The agency is responsible for adopting and amending Federal Motor Vehicle Safety Standards as well as investigating motor vehicle defects, supervising recall notices, and administering grants to states to enforce seat belt, distracted driving, and drunk driving laws.³ Among its many roles, NHTSA administers the vehicle identification number (VIN) system, develops the dummies used in crash safety testing, licenses vehicle manufacturers and importers, and sets fuel economy standards.⁴

II. FEDERAL LEGISLATION

¹ National Highway Traffic Safety Administration, *This Is NHTSA* (Jan. 2006).

² *Id.*

³ National Highway Traffic Safety Administration, *Who We Are and What We Do* (online at www.nhtsa.gov/About+NHTSA/Who+We+Are+and+What+We+Do) (accessed Mar. 22, 2016).

⁴ *See* note 1.

A. Moving Ahead for Progress in the 21st Century Act (MAP-21)⁵

MAP-21, which was signed into law on July 6, 2012, included auto-safety provisions such as a prohibition on the sale or importation of new cars or equipment with a defect or noncompliance, a requirement for rulemaking on rear seat belt reminders, and a directive to improve safety standards for car seats in side impacts. MAP-21 also required the establishment of a publicly accessible database for consumers to search for recalls on their vehicles. In addition, the law included an anti-retaliation provision for whistleblowers who provide information regarding motor vehicle safety issues.

B. Fixing America's Surface Transportation Act (FAST Act)⁶

The FAST Act, which was signed into law on December 4, 2015, was a funding and authorization bill governing federal transportation spending. Among other things, the Act prohibited rental car companies from renting out vehicles subject to safety recalls until they have been repaired, and increased the maximum civil penalty that can be imposed on auto manufacturers for safety-related motor vehicle defects.

The FAST Act also directed the Government Accountability Office (GAO) to assess the readiness of the Department of Transportation (DOT) to address the technology challenges associated with autonomous vehicles, including consumer privacy protections. The law further directed the DOT Inspector General and the NHTSA Administrator to report to Congress on NHTSA's progress in implementing recommendations from the Office of Inspector General (OIG) Audit Report issued on June 18, 2015, which assessed the functioning of NHTSA's Office of Defects Investigation (ODI).

C. H.R. 1181, the Vehicle Safety Improvement Act

On February 27, 2015, Subcommittee Ranking Member Jan Schakowsky, Full Committee Ranking Member Frank Pallone, Jr., and other Committee Democrats introduced H.R. 1181, the Vehicle Safety Improvement Act.

H.R. 1181 improves administrative accountability by, among other things, requiring NHTSA to promptly review and evaluate information provided by whistleblowers. Absent written consent from whistleblowers, the bill would also prohibit NHTSA from disclosing that information to manufacturers, distributors, suppliers or dealers.

The bill additionally requires that manufacturers' safety-related communications regarding defective parts be made public on NHTSA's website; improves the Early Warning Reporting system by requiring manufacturers to submit additional information on fatal incidents that may have been caused by a defect; and eliminates regional recalls. The bill also gives NHTSA imminent hazard authority to expedite recalls in certain cases; increases civil penalty

⁵ Pub. L. No. 112-141.

⁶ Pub. L. No. 114-94.

amounts and eliminates most statutory maximum penalties for violations of federal motor vehicle safety laws, like the failure to disclose relevant information to regulators in a timely manner; prohibits dealers from selling or leasing a used vehicle subject to a recall if the vehicle has not been repaired; and requires NHTSA to establish new standards to improve pedestrian safety.

III. SELECTED ISSUES

A. Motor Vehicle Recalls

In 2015, vehicle manufacturers overseen by NHTSA recalled 51.26 million vehicles for safety defects, more than the previous record-setting 50.99 million vehicles recalled in 2014.⁷ In contrast, no more than 20.3 million vehicles were recalled in any single year from 2005 to 2013.⁸ The large-scale and highly publicized recalls of a faulty ignition switch in General Motors (GM) vehicles and airbags manufactured by Takata Corporation contributed to the high number of recalls in the past two years.⁹

More than 20 percent of recalled cars are never repaired, leaving tens of millions of cars with safety defects on the road.¹⁰ The recall completion rate is 44 percent for vehicles 5-10 years old and 15 percent for vehicles older than 10 years.¹¹ Today, the average age of vehicles on the road is 11.4 years.¹²

⁷ Earlier reports stated that nearly 64 million vehicles were recalled in 2014, but the number was later corrected to 50.99 million after accounting for possible duplicative results from the ongoing Takata airbag recalls. *2015 Was Another Record Year for Vehicle Recalls*, Consumerist (Jan. 22, 2016) (online at consumerist.com/2016/01/22/2015-was-another-record-year-for-vehicle-recalls/).

⁸ *U.S. Auto Recalls Hit All-Time Record in 2015*, USA Today (Jan. 21, 2016) (online at www.usatoday.com/story/money/cars/2016/01/21/nhtsa-recall-completion-washington-auto-show-mark-rosekind/79111364/).

⁹ This Committee held hearings on the defective ignition switch on April 1, 2014, and June 18, 2014. Additional information regarding the April 1, 2014, hearing is available [here](#). Additional information regarding the June 18, 2014, hearing is available [here](#). The Takata recalls were the subject of hearings in this Subcommittee on December 3, 2014, and June 2, 2015. Additional information regarding the December 3, 2014, hearing is available [here](#). Additional information regarding the June 2, 2015, hearing is available [here](#).

¹⁰ *The Truth About Car Recalls*, Consumer Reports (Feb. 24, 2015) (online at www.consumerreports.org/cro/magazine/2015/04/the-truth-about-car-recalls/index.htm); National Highway Traffic Safety Administration, *U.S. DOT Hosts Workshop to Boost Recall Complete Rates* (Apr. 28, 2015) (online at www.nhtsa.gov/About+NHTSA/Press+Releases/2015/nhtsa-retooling-recalls-workshop-04282015).

¹¹ Auto Alliance, *Auto Alliance Announces National Recall Research Initiative* (Apr. 28, 2015) (online at www.autoalliance.org/index.cfm?objectid=20CC2DC0-EDAB-11E4-9002000C296BA163).

¹² *Id.*

B. Self-Regulation

On January 15, 2016, DOT and a group of 18 automakers released an agreement known as Proactive Safety Principles 2016, in which they committed to working collaboratively to address four broad principles: enhancing and facilitating proactive safety; enhancing analysis and examination of early warning reporting data; maximizing safety recall participation rates; and enhancing automotive cybersecurity.¹³ Auto safety advocates have expressed concerns that the Proactive Safety Principles lack implementation authority and question whether they can be enforced against automakers who fail to adhere to the agreement's terms.¹⁴

C. Connected and Autonomous Vehicle Technology

Many new vehicles include features that depend on Internet connectivity to function, such as hands-free communication, advanced safety features, and navigation.¹⁵ Between 40 and 60 million connected cars are estimated to be on roads worldwide today, and that number is predicted to increase to more than 250 million within the next five years.¹⁶ Implementation of other connectivity-dependent technologies, such as vehicle-to-vehicle (V2V) communication, vehicle-to-infrastructure (V2I) communication, and autonomous vehicles, is further in the future.¹⁷

On March 17, 2016, DOT, NHTSA and the Federal Bureau of Investigation (FBI) issued a joint bulletin warning consumers that motor vehicles are increasingly vulnerable to hacking.¹⁸ The bulletin referenced a 2015 experiment in which two researchers were able to remotely

¹³ Department of Transportation, *Proactive Safety Principles 2016*, (online at www.transportation.gov/briefing-room/proactive-safety-principles-2016) (accessed Mar. 24, 2016).

¹⁴ *Feds Seal Deal with Automakers on Car Safety*, The Hill (Jan. 15, 2016) (online at thehill.com/policy/transportation/266069-feds-seal-deal-with-automakers-on-car-safety).

¹⁵ *Hackers Make Cars Safer. Don't Ban Them from Tinkering*, Wired (Dec. 21, 2015) (online at www.wired.com/2015/10/terrell-mcsweeny-white-hat-car-hacking-makes-cars-safer/).

¹⁶ *Connected Car Security: Why Identity Should Be in the Driving Seat*, Information Age (Mar. 10, 2016) (online at www.information-age.com/it-management/skills-training-and-leadership/123461078/connected-car-security-why-identity-should-be-driving-seat).

¹⁷ *MIT: Red Lights Could Someday Be a Thing of the Past*, Computerworld (Mar. 18, 2016) (online at www.computerworld.com/article/3045942/car-tech/mit-hopes-to-eliminate-traffic-lights.html); *The Transformative Potential of Self-Driving Electric Cars*, Vox (Sept. 25, 2015) (online at www.vox.com/2015/9/25/9398063/self-driving-electric-cars); Department of Transportation, *Vehicle-to-Infrastructure (V2I) Communications for Safety* (online at www.its.dot.gov/factsheets/v2isafety_factsheet.htm) (accessed Mar. 24, 2016).

¹⁸ Department of Justice, *Motor Vehicles Increasingly Vulnerable to Remote Exploits* (online at www.ic3.gov/media/2016/160317.aspx) (Mar. 17, 2016).

disable a Jeep Cherokee by hacking into its control system.¹⁹ The researchers were able to access and manipulate the vehicle's transmission, brakes, and steering, and could track the car's coordinates and speed using GPS.²⁰ As a result of that research, Chrysler created a security patch and issued a recall for 1.4 million vehicles.²¹

In July 2014, in an effort to address cybersecurity concerns surrounding Internet-connected vehicles, NHTSA called on the automotive industry to form an Information Sharing and Analysis Center (ISAC).²² ISACs are industry-specific, nonprofit groups that share information regarding cybersecurity threats and other security risks between members.²³ On July 14, 2015, the auto industry announced the formation of an Auto ISAC, with the stated goals of improving the industry's response to cyber threats in real time and enhancing its efforts to protect vehicle electronic systems and networks.²⁴

Several auto manufacturers, automotive suppliers, universities, and technology companies have begun developing autonomous vehicles.²⁵ States are also addressing autonomous vehicles. Thirty-two bills relating to self-driving cars have been introduced or were active in state legislatures as of March 2016, and eight states have laws or executive orders already in place.²⁶ This state legislation is varied, including laws calling for studies of autonomous vehicles, laws requiring a licensed driver in the driver's seat, and laws authorizing use of autonomous vehicles on public roads.²⁷

¹⁹ *Hackers Remotely Kill a Jeep on the Highway—With Me in It*, Wired (July 21, 2015) (online at www.wired.com/2015/07/hackers-remotely-kill-jeep-highway/).

²⁰ *Id.*

²¹ *See* note 15.

²² National Highway Traffic Safety Administration, *NHTSA and Vehicle Cybersecurity* (online at www.nhtsa.gov/About+NHTSA/Speeches,+Press+Events+&+Testimonies/NHTSA+and+Vehicle+Cybersecurity) (accessed Mar. 24, 2016).

²³ Department of Homeland Security, *Information Sharing and Analysis Organizations (ISAOs)* (online at www.dhs.gov/isao) (Dec. 14, 2015).

²⁴ *Automakers Announce Initiative to Further Enhance Cyber-Security in Autos*, Auto Alliance (July 14, 2016) (online at www.autoalliance.org/index.cfm?objectid=8D04F310-2A45-11E5-9002000C296BA163).

²⁵ *Ford's Autonomous Vehicles Can See in the Dark*, PC Magazine (Apr. 11, 2016) (online at www.pcmag.com/news/343614/fords-autonomous-vehicles-can-see-in-the-dark); *Google's Self-Driving Cars Are Hitting Phoenix*, CNET (Apr. 7, 2016) (online at www.cnet.com/news/google-s-self-driving-cars-are-hitting-phoenix/); *Building Trust in Self-Driving Cars Through Biofeedback*, Motherboard (Apr. 9, 2016) (online at motherboard.vice.com/read/building-trust-in-self-driving-cars-through-biofeedback).

²⁶ *Are Autonomous Cars Even Legal?*, Consumer Reports (Mar. 31, 2016) (online at www.consumerreports.org/self-driving-cars/are-autonomous-cars-even-legal/).

²⁷ *Id.*

On January 14, 2016, DOT Secretary Anthony Foxx announced that the agency would issue guidance and model state policies on autonomous vehicles within six months.²⁸ On April 8, 2016, NHTSA held its first public hearing on self-driving cars, including testimony from automakers, consumer advocates, and engineers.²⁹

IV. WITNESSES

Panel I

The Honorable Mark R. Rosekind, Ph.D.
Administrator
National Highway Traffic Safety Administration

Panel II

John Bozzella
CEO
Global Automakers

Mitch Bainwol
President and CEO
Alliance of Automobile Manufacturers

Ann Wilson
Senior Vice President
Motor and Equipment Manufacturers Association

Michael Wilson
CEO
Automotive Recyclers Association

²⁸ *The US Department of Transportation is Trying to Fix Self-Driving Rules Before They Break*, The Verge (Jan. 14, 2016) (online at www.theverge.com/2016/1/14/10767502/us-dot-anthony-foxx-self-driving-rules-ford-volvo-google-gm-tesla).

²⁹ *Voices Clash at First Public Hearing on Self-Driving Cars*, The Verge (Apr. 8, 2016) (online at www.theverge.com/2016/4/8/11394454/self-driving-cars-nhtsa-dot-hearing-dc-regulations).