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4 MOTOR VEHICLE SAFETY PROVISION IN HOUSE AND SENATE HIGHWAY

5 BILLS

6 THURSDAY, MARCH 22, 2012

7 House of Representatives,

8 Subcommittee on Commerce, Manufacturing, and Trade

9 Committee on Energy and Commerce

10 Washington, D.C.

11 The Subcommittee met, pursuant to call, at 10:05 a.m.,

12 in Room 2123 of the Rayburn House Office Building, Hon.

13 Marcia Blackburn [Vice Chairwoman of the Subcommittee]

14 presiding.

15 Members present: Representatives Blackburn, Stearns,

16 Harper, Lance, Guthrie, Upton (ex officio), Butterfield,

17 Schakowsky, and Waxman (ex officio).

18 Staff present: Kirby Howard, Legislative Clerk; Brian

19 McCullough, Senior Professional Staff Member, Commerce,
20 Manufacturing, and Trade; Gib Mullan, Chief Counsel,
21 Commerce, Manufacturing, and Trade; Andrew Powaleny, Deputy
22 Press Secretary; Shannon Weinberg, Counsel, Commerce,
23 Manufacturing, and Trade; Michelle Ash, Democratic Chief
24 Counsel; and Will Wallace, Democratic Policy Analyst.

|
25 Mrs. {Blackburn.} The subcommittee will come to order.
26 Good morning, and welcome to everyone. Chairman Bono Mack
27 has personal business in California today, and it is going to
28 prevent her from joining us, and we look forward to her quick
29 return next week. So I would like to begin today, as I said,
30 by welcoming each of you and by yielding myself time for an
31 opening statement.

32 I do want to thank our expert witnesses for joining us
33 as we examine vehicle safety provisions in the House and the
34 Senate highway bills. We are honored to have our esteemed
35 colleague, Congressman Lewis, with us for our first panel,
36 Administrator Strickland, we welcome you for our second
37 panel, and several stakeholders whose industries and
38 interests are central to today's hearing.

39 The American people believe the auto industry can grow
40 and prosper without diminishing our efforts to make our
41 highways safer. These aren't mutually exclusive goals, and
42 they don't need to be if we have the right approach. The
43 history of the last 2 decades of highway safety demonstrates
44 that industry-developed technology, combined with federal
45 oversight and enforcement by NHTSA has continually reduced
46 the number of fatalities to near-record lows as collected
47 vehicle-travel rates continue to increase.

48 Transportation is fundamental to our everyday lives, and
49 highway safety deserves our special attention. The safety of
50 our roads is important, and it is in everyone's best
51 interest. Interstate commerce, our economy, and families
52 rely on the ability to travel safely in order to conduct
53 business, earn a living, and carry out their daily
54 activities. With safety always in the forefront of our
55 minds, we ought to ensure our motor vehicle safety policies
56 are framed in a way that ensures economic flexibility and
57 efficiency for business, as well as regulatory caution and
58 reduced uncertainty for the auto manufacturing industry.

59 Regarding flexibility and efficiency, we know that
60 America is a haven for innovators and that safety is
61 something many consumers look for when purchasing a vehicle
62 or traveling with a commercial bus or motorcoach company.
63 Accidents on our roadways are not only an immediate danger to
64 the passengers involved but also a major setback for
65 industry, potentially harming a small business's productivity
66 and safety reputation.

67 It is in the industry's best interest to incorporate
68 safety features into their vehicles and business models, and
69 they have the expertise to understand that safety features
70 work, how they work, how they interact, and how quickly they
71 can be implemented. We need to consider the best ways to

72 incentivize safety, to be flexible and respectful of the
73 processes that exist, to better understand what works best
74 for safety for our economy and the transportation systems.

75 Regarding caution and certainty, we must exercise
76 prudence before assuming the Federal Government knows best.
77 Simply placing more mandates and regulations on industry,
78 especially without proven safety benefits, will not help us
79 reach any of our shared goals for safe travel. Let's avoid
80 regulatory whiplash by narrowly targeting our efforts on true
81 harms, determining proven ways to make the biggest impact and
82 reducing crashes on our roads needs to take precedence.

83 At the same time, we need to understand what tools and
84 resources can be offered to improve transportation safety
85 without growing the size of the Federal Government and place
86 additional costs on consumers.

87 Businesses need certainty, and employees deserve to know
88 their jobs aren't at risk because of ill-conceived federal
89 regulations.

90 I look forward to hearing from each of our witnesses
91 today about their views on the state of safety within their
92 respective industries, how safety might be improved, and
93 whether there is a role for the Federal Government to help
94 those efforts. With the recent passage of the Senate
95 Transportation Bill, I am also interested to learn how

96 provisions in the Commerce Title of MAP-21 will affect safety
97 and any concerns our witnesses may have with the legislation
98 as proposed.

99 Thank you for your time, and I would like to recognize
100 the ranking member, Mr. Butterfield, for his opening
101 statement.

102 [The prepared statement of Mrs. Blackburn follows:]

103 ***** COMMITTEE INSERT *****

|
104 Mr. {Butterfield.} Let me thank you, Madam Chairman.
105 Let me thank the Chairman of the committee--subcommittee who
106 is not here today but thank her for her leadership on the
107 subcommittee and thank her for her friendship.

108 Let me also thank Congressman John Lewis for coming
109 today, and John Lewis is no stranger to any of us who serve
110 in this Congress, and I want to thank him and welcome him to
111 this subcommittee as well as the Administrator and other
112 witnesses who are waiting to testify this morning.

113 We have an 11:00 vote I am told, and so I better try to
114 expedite my statement and make sure that all of our witnesses
115 can be heard.

116 This committee has a long history of working together to
117 advance vehicle safety, and I am hopeful that we can continue
118 to be a part of that history today. Deaths from vehicle
119 incidents have declined significantly and are at their lowest
120 point in 60 years. Those who are here today as witnesses
121 should be proud of their role in making that happen.

122 However, far too many Americans still lose loved ones
123 when they are drivers or passengers of an automobile. It is
124 our job today, in my opinion, to ensure that we continue to
125 make progress in this area. Today we will discuss the
126 Senate-passed Surface Transportation Bill, as well as the

127 version of the Surface Transportation Bill reported to the
128 House Floor. Included in these measures are a number of
129 provisions related to passenger and motorcoach safety that
130 fall under the jurisdiction of the Energy and Commerce
131 Committee.

132 Arising gas prices and the economic recession will force
133 some people away from traveling in cars and instead some opt
134 to travel by motorcoach, and these large inter-city buses
135 transport large numbers of passengers over long distances
136 with a less expensive price tag, but those buses often lack
137 key safety features like seatbelts, use of advanced glazing
138 technology that makes windows stronger, and therefore, less
139 likely to break and eject passengers in the event of a crash,
140 and strong roofs to protect passengers from being crushed in
141 a rollover. And these safety improvements can help keep
142 passengers safer and ultimately save lives.

143 I am very pleased, again, that Congressman John Lewis
144 from the great State of Georgia is here today to speak about
145 his bill, H.R. 837, the Motorcoach Enhanced Safety Act of
146 2011, which was included as a part of the Senate Highway
147 Bill. I strongly support Mr. Lewis's efforts and hope that
148 Motorcoach Enhanced Safety Act will become law either as a
149 stand-alone bill or part of a larger legislative package.

150 I recently authored an amendment to H.R. 7, which I am

151 hopeful can be supported on a bipartisan basis, dealing with
152 odometer fraud at online auctions, and I am pleased that the
153 Senate bill included stiffer penalties for people who violate
154 federal odometer reporting requirements. I hope that it will
155 serve as a deterrent to those who defraud unsuspecting
156 consumers to the tune of over a billion dollars annually
157 according to a 2002 study.

158 There are roughly 260 million motor vehicles on the road
159 in the U.S. today, and the safety and security of passengers
160 traveling in those vehicles on American roads should be
161 paramount to policymakers, regulators, and the auto industry
162 alike. It is clear that auto manufacturers agree. They have
163 demonstrated their commitment to safety by continuously
164 innovating and creating new technological features such as
165 anti-lock brakes and stability controls.

166 I know we can work together to get those excellent
167 safety features on all vehicles any time and manner.
168 Congresswoman Blackburn, I hope we can ultimately pass a
169 long-term highway bill with strong safety provisions for
170 passenger vehicles as well as motorcoaches so that the
171 American roads are safer for all of us.

172 I appreciate the witnesses being here today, and I look
173 forward to their testimony.

174 I yield back.

175 [The prepared statement of Mr. Butterfield follows:]

176 ***** COMMITTEE INSERT *****

|
177 Mrs. {Blackburn.} The gentleman yields back.

178 At this time I recognize our full committee chairman,
179 Mr. Upton for 5 minutes to give his opening statement.

180 The {Chairman.} Well, thank you, Madam Chair, and
181 knowing that the votes have been moved up I am going to ask
182 to insert my statement into the record to expedite the
183 process.

184 So thank you very much for your leadership.

185 [The prepared statement of Mr. Upton follow:]

186 ***** COMMITTEE INSERT *****

|
187 Mrs. {Blackburn.} Thank you, and at this time I
188 recognize the ranking member of the full committee, Mr.
189 Waxman, for his opening statement.

190 Mr. {Waxman.} Thank you, Madam Chair and Ranking Member
191 Butterfield, for holding this hearing.

192 In the last Congress our committee examined massive
193 Toyota recalls and the government's slow response to sudden
194 unintended acceleration. We examined the reforms needed at
195 NHTSA. The committee passed the Motor Vehicle Safety Act,
196 which I introduced, to make sure NHTSA has the expertise to
197 keep pace with emerging technologies and stronger enforcement
198 authority to ensure timely and effective recalls.

199 Many of the provisions of this bill are included in the
200 bipartisan Senate Transportation Bill, and I would like to
201 thank Chairman Rockefeller and Pryor, the Senate sponsors of
202 the provisions for their leadership in moving this
203 legislation forward.

204 The Senate bill includes provisions to improve
205 electronics expertise at NHTSA. It also mandates new safety
206 standards to reduce the risk of sudden acceleration as well
207 as standards for electronics systems performance. The bill
208 includes measures to improve accountability with a higher cap
209 on civil penalties and a requirement that auto safety

210 officials certify the accuracy of information given to the
211 agency. The bill has improvements in the area of
212 transparency, it would give consumers easier access to recall
213 information, safety bulletins prepared by manufacturers, and
214 the early warning data companies submit to help NHTSA
215 identify defect trends.

216 All of these provisions are similar to ones we
217 considered in this committee last Congress, and they are all
218 important safety measures.

219 In addition, the Senate Reauthorization Bill requires
220 important new standards for child safety seats and booster
221 seats in particular. It has mandates for strong motorcoach
222 safety standards that are desperately needed but have
223 languished at NHTSA for years.

224 I would like to thank my colleague, Congressman John
225 Lewis, for his steadfast efforts to press for action on this
226 issue.

227 Let me close by thanking Administrator Strickland for
228 his testimony today. Your leadership along with Secretary
229 LaHood has reenergized the agency. While we take great pride
230 in the sustained decline in vehicle fatalities, we must
231 continue to look for opportunities to save more lives.

232 [The prepared statement of Mr. Waxman follows:]

233 ***** COMMITTEE INSERT *****

|
234 Mr. {Waxman.} I would like to now yield the balance of
235 my time to my colleague, Ms. Schakowsky.

236 Ms. {Schakowsky.} I thank the gentleman for yielding.

237 I want to reiterate that the Senate has passed the
238 Transportation Bill that has a number of key safety
239 provisions that will keep consumers safe, including children.
240 Mr. Waxman named some of them. I also wanted to highlight a
241 study and potentially a rulemaking system that could warn
242 drivers that a child remains in the backseat as well as the
243 child safety seat requirements.

244 Unfortunately, the House Transportation Bill as drafted
245 includes few safety measures and would actually repeal Safety
246 Belt Performance Grants, the Older Driver Safety Program, and
247 Child Safety and Child Booster Seat Incentive Grants. I hope
248 this hearing today will highlight the importance of the
249 provisions of the Senate Bill and the other party will
250 reconsider their approach here in the House.

251 Auto safety should be a bipartisan issue. Just, well, I
252 shouldn't say just, 4 years ago I worked closely with
253 Representative Peter King to enact the Cameron Gulbransen
254 Kids Transportation Safety Act. That bill mandated a rear
255 visibility rule, and we are anxiously awaiting finalization
256 of that this year, and of course, it will save lives.

257 The Senate bill with its many safety initiatives passed
258 by an overwhelming vote, as has been mentioned, 74 to 22, and
259 there is no reason we can't move auto safety forward in a
260 similar way here in the House. I hope we do it immediately,
261 and I yield back to the--to Mr. Waxman.

262 [The prepared statement of Ms. Schakowsky follows:]

263 ***** COMMITTEE INSERT *****

|
264 Mrs. {Blackburn.} I thank the gentleman for yielding
265 back.

266 We are going to have three panels today. As always,
267 each witness has prepared an opening statement. The full
268 statement will be in the record. You will have 5 minutes for
269 summarizing your remarks.

270 Our first panel, of course, is our colleague,
271 Congressman John Lewis, and we are delighted to have you
272 here. You are recognized for 5 minutes, and as always, punch
273 the button to turn on the mic, watch the timer. When it
274 turns yellow, you are going to have 1 minute for wrap-up, and
275 we are delighted that you are here. You may begin.

|
276 ^STATEMENT OF HON. JOHN LEWIS, A REPRESENTATIVE IN CONGRESS
277 FROM THE STATE OF GEORGIA

278 } Mr. {Lewis.} Well, thank you very much, Chairwoman
279 Blackburn, Ranking Member Butterfield, and members of the
280 committee. Thank you for the opportunity to testify today.

281 On March 2, 2007, an accident occurred in my
282 Congressional district and made headlines across the country.
283 A charter bus carrying the Bluffton University baseball team
284 careened off a closed exit and crashed onto highway I-75 in
285 downtown Atlanta, Georgia.

286 It was devastating. Seven of the 35 passengers lost
287 their lives on that terrible day. A university, a community,
288 parents, teachers, teammates, and friends mourned. News
289 outlets across the country asked, why did this happen? How
290 can we prevent this from occurring again?

291 A few days later, my office received a phone call from
292 Dr. Jeffrey Salomone, one of the leading surgeons who treated
293 the players. He knew the Grady doctors at the Grady
294 hospital, one of the best trauma centers in America. These
295 Grady doctors could have saved more lives if only the team
296 had not been thrown out of their seats and ejected from the
297 bus. Dr. Salomone explained his painful work trying to save

298 lives and do the patchwork. He felt strongly that much of it
299 could have been prevented if only they had been wearing
300 seatbelts.

301 He stated that countless lives could have been saved had
302 Congress acted years ago. He was furious at our inaction.
303 He knew what his job was and demanded that we do ours.

304 As a Nation we have learned time and time again that
305 motorcoach accidents are rare, but when they do occur, the
306 consequences are severe. The National Transportation Safety
307 Board recommended time and time again that Congress enact
308 stronger comprehensive motorcoach bus safety standards.
309 Since that terrible dark day in downtown Atlanta, there have
310 been 120 accidents across the country. One hundred and
311 twenty. Some are small and occur on their local news, while
312 others like the tragedy in Sherman, Texas, the Bronx in New
313 York, East Brunswick, New Jersey, High Point, North Carolina,
314 and most recent in Clinton, Montana, send a deathly reminder
315 that Congress needs to act, and we need to act now.

316 For me, buses are very important. They are personal.
317 Madam Chair, I traveled for 6 years from rural Alabama,
318 through Montgomery, through Birmingham, to Nashville,
319 Tennessee, from 1957, to '63, on my way to school. I grew up
320 taking motorcoach buses, again, in Alabama, in Georgia, in
321 Tennessee, in Virginia, and in the Carolinas. Dr. Martin

322 Luther King Jr. sent me a bus ticket to meet him for the
323 first time in 1958, when I was 18, and I later joined
324 thousands of Freedom Riders to desegregate interstate
325 commerce. I know all too well that buses are the lifeline of
326 our Nation. It is a major means of transportation for all
327 Americans; sporting teams, students, and tourists in every
328 corner of our country. Is it so wrong to push for them to be
329 safe? It is the right thing to do. It is the necessary
330 thing to do.

331 For 5 years we have had a bipartisan effort on this
332 issue. Senators on both sides of the aisle have tried
333 repeatedly to push this bill forward. Every time an accident
334 occurs in their home states, their citizens, like mine,
335 demand action, and we must act.

336 I commend the Senate for the inclusion of the Motorcoach
337 Enhanced Safety Act in the Surface Transportation
338 Reauthorization Bill. Recently my good friend and colleague,
339 Congressman Ted Poe from Texas, joined me in offering an
340 amendment to H.R. 7 to ensure that the House bill included
341 equally high motorcoach standards.

342 This is one of those issues where we just need to put
343 partisan politics aside and get it done. The American people
344 are demanding that we act. The motorcoach industry has had
345 decades to make their fleets safe and safer, and time is up.

346 Congress needs to act and act now, not tomorrow or next year
347 but now. I urge each of you to sit back and ask yourself why
348 you can get on a bus and have access to wireless service and
349 outlets but not a seatbelt? It doesn't make sense. Your
350 window is not crash-proof, the roof is not crush-resistant.
351 Trust me. You do not want to be on the receiving end of a
352 phone call from a doctor, a parent, a survivor, a child, a
353 patient, a loved one in a preventable motorcoach accident.

354 I hope and pray that any bill that this committee puts
355 on the Floor will send an unmistakable message that the
356 United States House of Representatives, the body of the
357 people, speaks in a clear voice for safety.

358 Again, I thank you for the opportunity to testify this
359 morning. Thank you, again.

360 [The prepared statement of Mr. Lewis follows:]

361 ***** INSERT 1 *****

|
362 Mrs. {Blackburn.} Thank you, Mr. Lewis. We appreciate
363 your testimony.

364 I have no questions that I am going to ask, but at this
365 time I am going to yield to Mr. Butterfield who does have one
366 question he would like to ask for the record.

367 Mr. {Butterfield.} Thank you, and thank you, Mr. Lewis,
368 for your very powerful statement. I think it speaks volumes
369 and clearly explains the issue that we have to deal with.

370 But as you acknowledge, the Senate bill is somewhat
371 different from the way you would like to see this handled.
372 The Senate does not require a retrofitting of motorcoaches,
373 and your bill does.

374 Would you be happy with the Senate version, or do you
375 want to stay with the idea of requiring retrofitting?

376 Mr. {Lewis.} Well, no, I would love to see what it is
377 in our bill prevail, but I am prepared to accept a
378 compromise. I want action.

379 Mr. {Butterfield.} All right. All right. That is my
380 question. Straight to the point. Thank you.

381 I yield back.

382 Mrs. {Blackburn.} Thank the gentleman for yielding
383 back.

384 Is there anyone further seeking recognition for

385 questions? Mr. Upton? Mr. Harper? Mr. Lance? Okay.

386 We thank you, sir, for your time.

387 Mr. {Lewis.} Thank you, Madam Chair and members of the
388 committee. Thank you very much.

389 Mrs. {Blackburn.} Thank you, sir.

390 Mr. Strickland. For our second panel we have the
391 Honorable David Strickland, Administrator of the National
392 Highway Safety--Transportation Safety Administration, NHTSA
393 as we love to call it. Good morning. We are pleased that
394 you are here. You are recognized for 5 minutes, and as
395 always, punch that button to get the mic on so that we can
396 hear you, and watch the timer. When it moves to yellow, you
397 will have 1 minute left for wrap-up, and at this point you
398 may begin.

|
399 ^STATEMENT OF HON. DAVID L. STRICKLAND, ADMINISTRATOR,
400 NATIONAL HIGHWAY TRANSPORTATION SAFETY ADMINISTRATION

401 } Mr. {Strickland.} Thank you very much, Madam Chairman,
402 Ranking Member Butterfield, and members of the committee. It
403 is always good to be back before Energy and Commerce.

404 This is a fantastic opportunity for the men and women of
405 the National Highway Traffic Safety Administration to have
406 the opportunity to discuss the Motor Vehicle Safety
407 Provisions in the Surface Transportation Reauthorization.

408 I can definitely speak with some experience here in
409 terms of the amount of effort it takes to get one of these
410 bills done. I had the pleasure and honor to serve as a
411 staffer on the Senate Commerce Committee during the work on
412 SAFETEA-LU, so I definitely appreciate the task before you
413 and happy to be of assistance along with my staff at any time
414 that you ask.

415 As you know, last year the Nation continued a long-term
416 downward trend in traffic-related fatalities. In 2010, there
417 were 32,885 motor vehicle-related fatalities, a 24 percent
418 reduction compared to 2005, and the lowest level since 1949.
419 For all of us at the agency this trend is encouraging, but
420 almost 33,000 people losing their lives in motor vehicle

421 crashes is a toll that is way too heavy.

422 The National Highway Traffic Safety Administration is
423 working across multiple fronts to save lives and reduce
424 traffic-related injuries. We continue to promote responsible
425 driver behavior to reduce alcohol-impaired driving and to
426 encourage the use of seatbelts. We are also working
427 vigorously to meet the new challenge of distracted driving.

428 At the same time we are exploring new emerging
429 technologies that have the potential to prevent crashes from
430 happening in the first place, which, frankly, is the moon
431 shot for dealing with all of our fatalities on the roads.

432 As I discuss more fully in my written testimony, the
433 Senate has include a number of provisions that would permit
434 the agency to ensure motor vehicle and equipment safety on a
435 broader basis than we can today, including the authority to
436 address safety hazards caused by some imported motor vehicle
437 equipment, greater consumer protection against safety defects
438 or non-compliance from manufacturers who file for bankruptcy,
439 and increases in the total amount of civil penalties that
440 NHTSA can seek for safety-related violations.

441 To further strengthen our safety mission, we seek
442 additional authority in several areas including the authority
443 to require action by used car dealers or rental car companies
444 with regard to recalled vehicles, clarification of authority

445 over safety-related aspects of distracting portable
446 electronic devices in vehicles, and the direct appellant
447 review of recall orders to ensure that manufacturers may
448 challenge orders while avoiding lengthy district court trials
449 during which there is no recall in effect to protect
450 consumers.

451 We at the agency believe that these straightforward
452 clarifications of authority would enable us to address timely
453 safety concerns on our roadways. For example, the authority
454 to notify consumers of recall issues before they purchase a
455 used vehicle or rent a car could easily protect consumers and
456 provide real world safety benefits.

457 Here is a second example. The agency recently proposed
458 visual manual driver distraction guidelines. These
459 guidelines are designed for vehicle manufacturers to consider
460 as they introduce electronic devices into these vehicles.
461 However, the agency needs clarification of its authority
462 concerning the safety aspects of external devices that can
463 also distract drivers inside the vehicle. Here, again,
464 clarification of the agency's authority to do so is an
465 important element in furthering the safety of those devices.

466 Finally, the Senate bill includes numerous rulemaking
467 provisions with some very short deadlines. I appreciate the
468 inclusion of a provision that would allow an extension of a

469 timeframe when necessary with an explanation to the
470 committees of jurisdiction. This will permit the agency to
471 continue to prioritize its regulatory work based on available
472 resources and the judgment of the likely safety benefits and
473 costs.

474 Thank you, again, Madam Chairman, for this opportunity
475 to testify before the committee today. I am happy to answer
476 any questions that all of you may have.

477 [The prepared statement of Mr. Strickland follows:]

478 ***** INSERT 2 *****

|
479 Mrs. {Blackburn.} Thank you, sir. We appreciate your
480 time, and I will tell you what, record pace getting through
481 that opening statement, and we will try to reciprocate with
482 our questions.

483 I will yield myself 5 minutes to begin the questioning
484 with you.

485 I want to start, something was mentioned in opening
486 statements about the Safety Bill Grants. I want to just seek
487 some clarification. Are you not looking to repeal those
488 grants and then reprogram that money for other uses?

489 Mr. {Strickland.} That is correct. I will be happy to
490 answer the question more fully for the record, but right now
491 it is a Section 406 grant. It is under SAFETEA-LU, which is
492 a Primary Belt Grant, which gives a very significant payment
493 for states that have not passed the Primary Belt Law for the
494 first time, and it pulls that incentive.

495 Therefore, the reason we are asking to reprogram these
496 funds is that, frankly, the states that we feel that could be
497 pulled in by this incentive have taken action, and at this
498 point right now we are having fairly significant resources
499 that are not being expended, and we feel that we could
500 repurpose these particular funds in a way that can further
501 increase belt use but not tying up the resources for some

502 states that may not decide to go in that direction of primary
503 belts.

504 Mrs. {Blackburn.} Okay, and that is action you already
505 have in process?

506 Mr. {Strickland.} Yeah. Actually, we made technical
507 assistance to the Senate in regards to this issue, and that
508 is what they did.

509 Mrs. {Blackburn.} Excellent. Okay. I want to ask you
510 about Cass Sunstein's comments describing the guidance that
511 is being given to the federal agencies on the cumulative
512 effects of the regulations on industries, and how is NHTSA
513 planning on complying with that new guidance?

514 Mr. {Strickland.} Thank you for the question, Madam
515 Chairman. This is something that frankly internally that we
516 have always done in coordination with all of our rules. We
517 always have to take into consideration the cumulative affect
518 of the work that we are doing. It is our goal to make sure
519 that the rules that we promulgate maximize safety benefits
520 while taking into account the possible costs. It does not
521 serve to anyone's advantage to have redundant or unnecessary
522 rules that do not apply or improve the prism of safety.

523 So frankly, you know, I think Administrator Sunstein's
524 guidance is effectively what the agencies are already working
525 under. That was a clarification of the particular guidance

526 and intent, but our, in terms of our rulemaking operation, we
527 already sort of take those elements into--

528 Mrs. {Blackburn.} So you have an active cost benefit
529 analysis--

530 Mr. {Strickland.} Absolutely.

531 Mrs. {Blackburn.} --that is in place. Would that apply
532 to the last fall's CAFE proposal and pending review
533 visibility rule, the visual manual guidelines for automakers,
534 potential rulemakings on advanced vehicle communications such
535 as vehicle to vehicle and vehicle to infrastructure?

536 Mr. {Strickland.} For CAFE, yes, it applies.

537 Mrs. {Blackburn.} Okay.

538 Mr. {Strickland.} For rear visibility, it applies. In
539 regards to the visual manual guidelines, they are guidelines.
540 They are not a rule, so, therefore, we did not have to take
541 cause into effect.

542 Mrs. {Blackburn.} Okay. All right, and what about the
543 vehicle communications?

544 Mr. {Strickland.} That will be--right now we are making
545 the agency decision as to the vehicle to vehicle, you know,
546 systems. We are making the agency decision by the end of
547 this year, which may then enter into rulemaking phase. When
548 it does, prospectively if the agency decides to move forward
549 with the rule in regards to the vehicle, the vehicle

550 communications, then, of course, the cost benefit analysis
551 guidance would then fall into play in terms of our issuance
552 of that rule.

553 Mrs. {Blackburn.} Okay. We have got a fragile recovery
554 in the auto industry, if you will, and so as you look at
555 rules and guidelines and mandates and requirements on the car
556 makers, what are you doing there for make certain that you
557 don't overreach and harm a recovery, that everything you are
558 doing is--you are going to look at that cost benefit
559 analysis?

560 Mr. {Strickland.} Madam Chairman, as you already
561 referred, the cost benefit analysis definitely asks us to
562 weigh the cost and the benefits of our rules. Thinking about
563 numbers and factors, I mean, frankly, in some situations
564 depending on the rules thousands of variables or factors in
565 terms of costs and benefit and including how it may impact
566 potential consumers and the industry itself.

567 So in terms of our evaluations, that has been our north
568 star in terms of our rulemaking effort. So in regards to
569 CAFE and regards to rear visibility, we have always taken
570 very hard looks, the two most recent examples of how we look
571 at costs and benefits and how they may impact the fleet.

572 And so absolutely we take that into account very
573 strongly every time we go into a rulemaking process.

574 Mrs. {Blackburn.} You noted in your testimony that you
575 all are already working on many of the items that are in the
576 Senate bill.

577 Mr. {Strickland.} That is correct.

578 Mrs. {Blackburn.} And of those mandates that are there,
579 the standards that they are looking to mandate, how many are
580 you already working on?

581 Mr. {Strickland.} Well, there are several. We will get
582 back to you on the record specifically for the--

583 Mrs. {Blackburn.} That would be helpful.

584 Mr. {Strickland.} But we have, we also definitely
585 referred to our Research and Rulemaking Priority Plan, which
586 we have posted on NHTSA.gov, which goes through the
587 timeframes and the process of where we are in all of our
588 work, but there is a significant amount of work in motorcoach
589 and other places where we have undertaken work, and we are
590 actually close to completion on some of those elements.

591 Mrs. {Blackburn.} Thank you. My time has expired.

592 I recognize Mr. Butterfield.

593 Mr. {Butterfield.} Thank you. In 2009, NHTSA issued a
594 Motorcoach Safety Action Plan. I am sure you are familiar
595 with that, building off of NTSB recommendations, the plans
596 set rulemaking priorities for crash avoidance, seatbelts,
597 fire safety, emergency egress, and ejection mitigation. A

598 timeline for addressing these priorities was outlined in the
599 agency's 2011, 2013, rulemaking and research priority plan.
600 In the past NHTSA has often not met its rulemaking timelines.
601 That is why Congress has felt the need to step in and impose
602 deadlines

603 Regardless of whether the Senate bill becomes law, how
604 do you intend to stick to your deadlines?

605 Mr. {Strickland.} Ranking Member, absolutely I will
606 have to say that all of these safety issues are so important,
607 and the timeliness of them and the promulgation of these
608 issues is the highest priority of the Secretary and myself.
609 We always have to recognize that this work has to be based on
610 sound science, sound engineering principles, and frankly,
611 there is a notion of sometimes the chaos theory and the
612 unknown in terms of the work, in terms of how we promulgate
613 these rules.

614 However, we have very close to completion on a number of
615 these rules such as the mandatory seatbelt rule for
616 motorcoaches. We are on the edge of working on and possibly
617 promulgating a proposal for electronic stability control in
618 heavy-duty vehicles, for example, for roof crush structures
619 and vehicle stringency, for motorcoaches. We are very close
620 to working on that as well.

621 So I appreciate the fact that we are well overdue. It

622 is the Secretary's commitment and my commitment that we hold
623 to our deadlines and that we issue these rules in a timely
624 manner.

625 Mr. {Butterfield.} I notice a proposed rulemaking on
626 the seatbelt standard was released in August of 2010, and the
627 comment period closed about 18 months ago. What is the
628 status of this rulemaking?

629 Mr. {Strickland.} Right now it is over at the Office of
630 Management and Budget. We hope that this rule will be issued
631 fairly soon in 2012.

632 Mr. {Butterfield.} Let me ask you about school buses.
633 I just learned recently that school buses don't fit within
634 the definition of motorcoach. Is that correct?

635 Mr. {Strickland.} That is--I guess the question is
636 motorcoach has an over the road, but for school buses there
637 are definitional differences.

638 Mr. {Butterfield.} And is there any type of
639 conversation ongoing about whether or not these safety
640 features should be included on school buses? And the reason
641 I ask that and it has been so long ago, and I don't expect
642 anyone to remember, but in my Congressional district I guess
643 25 or 30 years ago, there was an awful, awful, awful school
644 bus accident in which all of the children on the bus were
645 actually killed, and the conversation back then and remains

646 in that small community, you know, about seatbelts on school
647 buses.

648 Mr. {Strickland.} Yeah. School buses, sir, we had
649 actually taken action on in terms that we have permitted the
650 states may go forward, and they may individually decide to
651 mandate belts on buses within their particular states or
652 jurisdiction. There is not a national rule mandating belts
653 on school buses, or it is not part of the rulemaking
654 undertaking for motorcoaches.

655 The reason is this. The safest form of transportation
656 for children is a school bus period. There is probably a
657 handful of deaths a year, maybe I think seven or eight
658 fatalities a year because of school bus crashes, and most of
659 those are for children that are struck outside of the bus.
660 In terms of the actual bus crashes I think the average would
661 be one to two children per year versus the hundreds of
662 thousands of miles that are traveled and the thousands and
663 thousands of children that are carried by school buses.

664 Adding the belts on the buses may actually decrease the
665 number of buses available for children to ride, which would
666 actually increase the number of fatalities of children
667 because they will be forced to taking passenger cars. There
668 is the structure of compartmentalization in buses, protects
669 children, and frankly, the cost and the benefits of having

670 the belts on buses the agency feels that is not the
671 appropriate measure at this time. We feel that adding belts
672 on buses decreases the number of buses and thereby, would
673 increase the risk of children driving in passenger cars.

674 Mr. {Butterfield.} All right. In the interest of time
675 I think I am going to yield back. I had one more, but I am
676 going to yield back.

677 Mrs. {Blackburn.} Thank you, Mr. Butterfield. Would
678 you like to submit that one for the record just to get a
679 response in writing? Okay. We will do so accordingly.

680 At this time I recognize Mr. Harper for 5 minutes.

681 Mr. {Harper.} Thank you, Madam Chair.

682 Mr. Strickland, thank you for being here and taking this
683 time. I am sure you were looking at fun things to do, and
684 this was at the top of your list, but we appreciate your
685 time.

686 You know, one of the big safety concerns seems to be
687 texting while driving. That is the complaint I hear more
688 than anything else back home, and it is something that we
689 certainly tell our friends and staff don't do that.

690 Mr. {Strickland.} We appreciate that.

691 Mr. {Harper.} It is certainly something. Coming in
692 from the airport Monday we almost observed a major wreck on
693 the interstate coming in from Reagan National where there was

694 a work truck stopped, and it was clear they were not paying
695 attention, and it was within a foot or 2 of plowing into the
696 back of a stopped work truck. So, you know, it is a great
697 concern every day for us on how we are going to address those
698 issues.

699 One of the questions, I know there is some talk about
700 maybe blocking cell phone usage of drivers. Is that
701 something that you are looking at, any aspect of that, or
702 just texting?

703 Mr. {Strickland.} Well, thank you for the question, Mr.
704 Harper. The Secretary's leadership over the past 3 years on
705 distractions has really sort of given, frankly, the entire
706 country leadership and guidance on this emerging threat.
707 From his work on the two distraction summits and frankly, his
708 direction to all the mobile administrations, including mine,
709 things that we could do to address distraction risks in our
710 particular motor vehicles.

711 Clearly, the usage of devices in motor vehicles poses a
712 very significant threat. We lost over 3,000 people in 2010,
713 to distraction-related crashes. In terms of your question
714 regarding technologies that may be used to intervene, we are
715 looking at several possible technology pipelines as
716 possibilities for further research, but right now we are
717 really focused on our distraction plan, which the first

718 element is the visual, manual guidelines that are right now
719 in the proposal and comment period, and that closes on April
720 24. And then our next work will begin then on nomadic
721 devices and then of those commands or cognitive impact of
722 using these devices.

723 Mr. {Harper.} Is there any plan or do you support--I
724 know some localities have cell phone bans--

725 Mr. {Strickland.} Uh-huh.

726 Mr. {Harper.} --you know, and driving. Is that
727 something that you are looking at technology wise to restrict
728 driver usage of cell phones?

729 Mr. {Strickland.} At this point right now our review of
730 the technologies we don't see a viable pathway
731 technologically for cell phone blocking because the thing
732 called spill over, you can basically, you have say a jamming
733 signal in a vehicle. It doesn't stay in one vehicle, it
734 spreads to other vehicles. There is a similar issue that is
735 corollary but not necessarily direct connected where I know
736 in the penal system that they are looking at possibly having
737 cell phone jammers to keep prisoners from using cell phones,
738 and they have the very same issues. It spills out and over
739 well outside the borders of the jail and impacts actual
740 consumers.

741 So in terms of that particular issue we don't see a

742 particular promise in that technology, but we not sort of on
743 a pathway of analysis of trying to figure out a technological
744 way to stop cell phone usage in the car. We are not doing
745 that type of--

746 Mr. {Harper.} Of course, distracted driving has been an
747 issue since the first AM radio got put in the first car.

748 Mr. {Strickland.} Yes, sir.

749 Mr. {Harper.} And so I know that we certainly don't
750 want to interfere with anyone's ability to enjoy themselves
751 while they are driving, but the texting is certainly
752 something that we are interested in working on to work with
753 you on that particular issue.

754 Mr. {Strickland.} Well, the one other thing I would
755 like to definitely underscore, Mr. Harper, I think you made a
756 very good point. You know, distraction is more than just a
757 phone. Distraction is more than just an android device or
758 whatever the case may be. There is an element of personal
759 responsibility that has to be involved with every driver. So
760 as much as we are working on making sure the vehicle doesn't
761 create more risk, it is also important to underscore that to
762 make sure that people recognize that your only job behind the
763 wheel is to drive.

764 So thank you very much for noting that, sir.

765 Mr. {Harper.} Okay. Now, I will yield back the balance

766 of time.

767 Mrs. {Blackburn.} I thank the gentleman for yielding
768 back.

769 At this time Ms. Schakowsky, you are recognized for 5
770 minutes.

771 Ms. {Schakowsky.} Thank you. I will be very brief. I
772 wanted to tell you, Mr. Strickland, that I got a very much
773 appreciated call from the Secretary about the rulemaking and
774 the rear visibility in vehicles, that the standard that I
775 hope will come out, and while I am disappointed that it
776 didn't come out in February as it was originally scheduled,
777 he explained his absolute commitment to getting it done.

778 So just for the record I wanted to thank you, and I also
779 wanted you to comment on your commitment to issuing a strong
780 rule and whether it is at all possible to move up that
781 timeline.

782 Mr. {Strickland.} Ms. Schakowsky, I absolutely give the
783 very same commitment the Secretary gave to you. As I have
784 had the honor to work with you on this particular issue as a
785 staffer, and I remember beginning work on this issue in 2003,
786 I am very proud of a lot of the work that I was able to share
787 and assist members on over the years, but I will say the
788 Cameron Gulbransen Act is probably one of the highlights in
789 terms of what I think is such a special rule because it is

790 about children's safety.

791 So for that we at the agency want to make sure that we
792 get this rule right, and we want to make very special care to
793 do that, but absolutely we are laser focused on working
794 through those issues and getting this, getting the rule
795 promulgated as the Secretary issued the deadline.

796 Ms. {Schakowsky.} Thank you very much. About two
797 children get killed every month, so the sooner the better.
798 Right.

799 The other thing that you alluded to in your testimony,
800 you briefly mentioned, under current law there is a loophole
801 that allows rental car companies to lease out vehicles that
802 are under safety recall without making the repairs. I
803 frankly was pretty startled to find that out, and in 2004,
804 two sisters, Rachael and Jacqueline Haugh, were killed in a
805 Chrysler PT Cruiser that was under recall for steering
806 problems yet rented out by Enterprise. The steering column
807 malfunctioned, the car caught fire, and they veered into the
808 path of an ongoing tractor trailer.

809 I can't understand why there is any excuse for rental
810 companies to loan out cars to individuals without making the
811 necessary repairs which manufacturers usually provide for
812 free.

813 So you talked on this issue, and I wanted to know what

814 authority NHTSA needs, has or needs to prevent these
815 avoidable accidents.

816 Mr. {Strickland.} Ms. Schakowsky, the Department
817 provided technical assistance to the Senate in regards to
818 this issue. You are absolutely right. Right now rental car
819 companies and used car companies have no obligation under law
820 to fix a repair that has been issued under the Safety Act,
821 which means you have unwitting and unsuspecting consumers
822 that may be getting in vehicles that are not repaired and
823 putting themselves at risk. These companies are in the
824 stream of commerce, and I don't think that any consumer
825 whatsoever should have an expectation or worry that the next
826 car they rent may not be properly repaired and put their
827 lives at risk.

828 So we very much support the proposition of giving this
829 authority under the Motor Vehicle Safety Act to then cross
830 apply our enforcement authority over rental car companies and
831 used car dealers so that we can make sure that these cars get
832 repaired.

833 Ms. {Schakowsky.} Thank you very much, and once again,
834 thank you for all the work that you have done on the rear
835 visibility rule, and I hope that we will see it as soon as
836 possible. Thank you.

837 Mr. {Strickland.} Thank you, Ms. Schakowsky.

838 Mrs. {Blackburn.} Thank the gentlelady for yielding
839 back, and at this time I recognize Mr. Guthrie for 5 minutes.

840 Mr. {Guthrie.} Hey, thank you for coming here today.
841 Appreciate having you.

842 Mr. {Strickland.} Thank you, sir.

843 Mr. {Guthrie.} Looking at the Senate Highway Bill, it
844 has a lot of new requirements that you are going to have to
845 put forth, some like the device recorder, the black box, and
846 the push button ignition standards, and it asked you to move
847 forward on rulemaking in some areas that your group is still
848 studying, it puts a lot of mandates for you to do over the
849 next course of the bill, and I guess my question is do you
850 feel like that is going to overwhelm what you do? I know you
851 are probably not overstaffed, and are you going to have to
852 pull people from one project.

853 Mr. {Strickland.} Au contraire.

854 Mr. {Guthrie.} You are, you say are?

855 Mr. {Strickland.} Oh, no. Overstaffing, quite the
856 contrary.

857 Mr. {Guthrie.} Oh. I know you are not.

858 Mr. {Strickland.} Yeah. We have a very active and
859 vigorous force of 600.

860 Mr. {Guthrie.} Exactly. That is what I figured. So
861 all these new mandates come down. Does this concern you in

862 your ability to finish projects you are on? Are you going to
863 have to move people from one project to another?

864 Mr. {Strickland.} Mr. Guthrie, we have a research and
865 rulemaking priority plan which is based on data and risk. We
866 work very hard to make sure that we allocate our resources in
867 a way that we save the most lives in terms of the work that
868 we do. While we recognize that in terms of our own analysis,
869 there is clearly other issues that the Congress may ask us to
870 take up, and we are more than willing and happy to do, but it
871 has to be done in the context of recognizing that these have
872 to be done within the context of the other rules that we are
873 working on, which really do have a broad impact to save
874 lives.

875 Mr. {Guthrie.} So--

876 Mr. {Strickland.} Every additional rule does add more
877 burden. Then we definitely ask for, I guess, the ability to
878 be able to adjust deadlines, you know, with the Secretary
879 notifying the committees of jurisdiction of the reasons why
880 we had to make those particular moves. But we will say that
881 the deadlines in the Senate bill are incredibly aggressive.
882 Frankly, I don't think that as they are currently written we
883 would not be able to make those deadlines just by the very
884 nature of regular rulemaking we would make those deadlines.

885 Mr. {Guthrie.} Uh-huh. That is good to know, because I

886 know your rulemaking process you assign by risk, as you just
887 said, and so if the number one thing you are working on is
888 the number one thing that is going to save lives, then as you
889 move down, then if all the sudden you get these mandates from
890 the outside, and of course, it is within the purview of
891 Congress, it is something we need to understand that as we
892 put new mandates on you, that either--if they were in your
893 queue already at the high part of your queue, they would be
894 high risk because that is what you are looking at.

895 So we are going to ask you to pull people off of other
896 projects it sounds like if we pass the deadlines that the
897 Senate put into place.

898 Mr. {Strickland.} We would ask to be able to work with
899 the committees of jurisdiction on being able to establish
900 timeframes to accomplish all the safety goals that they are
901 asking. The things that are highlighted in the Senate bill
902 are important. They are risks, but we always, I want to make
903 sure that we can sort of align our resources and our workload
904 so we can best address the risks that affect most people.

905 Mr. {Guthrie.} And one other question. I know there is
906 a 2-year ban for somebody that works for your commission, I
907 guess, agency--

908 Mr. {Strickland.} Uh-huh.

909 Mr. {Guthrie.} --to go work in the private industry

910 when they are--and I know there are a lot of people that are
911 automotive engineers that have specific skills or so forth,
912 and you may want to hide them from private industry because I
913 have been to proving grounds, test grounds, and things.
914 These are highly-skilled people, highly-educated people who
915 do this for private industry trying to make sure they have
916 safety and security because we know our automotive suppliers
917 want to put out safe vehicles.

918 But if you needed somebody with those kind of
919 technological ability and they knew that they came and worked
920 for you for some number of years or a brief period of time
921 and couldn't go back, is that a problem in recruiting I guess
922 is my question, the 2-year ban? Do you think that is going
923 to be an issue for you?

924 Mr. {Strickland.} Mr. Guthrie, the Obama Administration
925 holds our ethics obligations to the highest level. We
926 believe that our guiding light should be making sure that we
927 serve the American people in an honest and forthright way.

928 However, we also believe that the ethics rules should be
929 thought about and considered and applied in a federally-
930 consistent manner. I think one of the impacts that you
931 highlighted is that when you single out a particular agency,
932 whether it is ours, the National Highway Traffic Safety
933 Administration, or others, you have unintended consequences.

934 Mr. {Guthrie.} Uh-huh.

935 Mr. {Strickland.} We are more than happy to have a
936 dialogue with the committee to discuss ways that we can work-
937 -

938 Mr. {Guthrie.} Because this--I am about out of time.
939 This doesn't ban them from lobbying. This bans them from
940 going back and working in private industry.

941 Mr. {Strickland.} That is correct.

942 Mr. {Guthrie.} In the field. So if you have highly-
943 technical vehicle engineers, and our automotive people have
944 them, they have them working for them because they are in the
945 business of putting out a safe product, and therefore, these
946 people would really be banned for you to hire because it
947 would hurt their careers. And they're not talking about
948 going back and trying to influence policy. They are going
949 back and making--going back and forth to make sure we have
950 safe vehicles on the road. I am familiar with industry.
951 That is why I think that that is going to limit you in hiring
952 those kind of people.

953 Mr. {Strickland.} Well, Mr. Guthrie, we are always
954 mindful of trying to make sure we are blessed with some of
955 the best automotive talent in the work that work for our
956 agency. We are always mindful of the ability to be able to
957 recruit and compete, you know, good talent going forward, and

958 anything that we could do to make sure that we have clearly
959 the highest ethical standards that are federally consistent
960 and the ability to be able to actively compete, not only with
961 private industry to bringing in the best but frankly other
962 agencies across government to bring in the best talent. It
963 is always something that we would be happy to discuss with
964 the committee and hopefully find a way forward.

965 Mr. {Guthrie.} Thank you. Thank you very much.

966 Mrs. {Blackburn.} Thank the gentleman for yielding
967 back, and I do not think we are going to do a second round.
968 I just have two additional questions that I wanted to
969 highlight with you and get your input.

970 In the Senate bill why didn't that include a
971 reauthorization for your vehicle safety programs? I think it
972 did you highway programs but not your vehicle.

973 Mr. {Butterfield.} Point of order, Madam Chairman. Are
974 we going to do a second round or not do a second round?

975 Mrs. {Blackburn.} If you would like to do a second
976 round--

977 Mr. {Butterfield.} Well, it appears that you are
978 engaged in a second round which is contrary to what I thought
979 the agreement was.

980 Mrs. {Blackburn.} We can do a second round if everyone
981 would like to.

982 Mr. {Butterfield.} I am just trying to get--

983 Mrs. {Blackburn.} I have two further questions.

984 Mr. {Butterfield.} --the third panel on queue here.

985 Mrs. {Blackburn.} Yes, sir. We are, too.

986 Mr. {Butterfield.} Yes, well, I thought we had an
987 agreement. Apparently we don't. Consider this the second
988 round.

989 Mrs. {Blackburn.} We will do so.

990 So what we would like to hear is why didn't the Senate
991 bill include a reauthorization for those vehicle safety
992 programs.

993 Mr. {Strickland.} Ms. Blackburn, I can't speak to the
994 decision that the Senate made in terms of why they
995 constructed the bill that they did. We provided technical
996 assistance, and they made a decision not to include that
997 particular provision.

998 Mrs. {Blackburn.} Okay. Thank you. Did you have any
999 input on that decision?

1000 Mr. {Strickland.} We were asked, the Senate Commerce
1001 Committee and the other committees of jurisdiction of the
1002 Senate asks the agency for technical assistance. We provide
1003 direct technical assistance.

1004 Mrs. {Blackburn.} Okay.

1005 Mr. {Strickland.} We don't--we are not involved in any

1006 policy decisions.

1007 Mrs. {Blackburn.} That is great, and then does
1008 electronic stability control present different challenges for
1009 different types of vehicles, or is it simply a matter of
1010 installing the same technology that has already been
1011 developed for smaller vehicles?

1012 Mr. {Strickland.} It is very different. There is so
1013 many different variables in establishing electronic stability
1014 control in heavy-duty vehicles. I presume that is what you
1015 are asking.

1016 Mrs. {Blackburn.} Yes.

1017 Mr. {Strickland.} And there is stability, there is roll
1018 stability, there is a number of other elements, there is
1019 different tests and protocols. It is a wildly-different
1020 animal which will take time for us to make sure that we get
1021 it right.

1022 Mrs. {Blackburn.} Okay. So you are just seeking
1023 further time?

1024 Mr. {Strickland.} We are working, we are currently
1025 working on the proposal, but in terms of your question, which
1026 is are light vehicles, electronic stability control cross
1027 applicable to heavy duty, the answer is no, they are not. We
1028 have to undertake new work to do so.

1029 Mrs. {Blackburn.} Okay. With that, that is the extent

1030 of the questions that we were seeking.

1031 Mr. Butterfield, I recognize you for a second round.

1032 Mr. {Butterfield.} All right. Thank you.

1033 Administrator, in previous testimony to this committee
1034 you have expressed concern that the maximum civil penalty the
1035 agency can seek from a manufacturer is set in the statute at
1036 only \$15 million per case, which adjusted for inflation comes
1037 to a little over \$7 million in today's dollars. In 2010, it
1038 is assessed that maximum allowable penalties at the time
1039 against Toyota, \$16.4 in one case, \$16 million in another,
1040 for a total of \$32 million.

1041 NHTSA noted in a letter to the company that without this
1042 cap Toyota could have been assessed penalties for \$13.8
1043 billion. If Senate 1813 were to become law, there would be
1044 the potential for increased civil penalties up to \$250
1045 million per case.

1046 Question. How would increasing the civil penalties' cap
1047 strengthen the agency's ability to enforce safety rules? How
1048 would it affect your interactions with the auto companies?

1049 Mr. {Strickland.} Mr. Butterfield, we have the
1050 obligation, the duty to protect American safety regarding
1051 traffic crashes, and thereby, we regulate some of the largest
1052 industries on planet Earth. And frankly, a maximum penalty
1053 of over \$17 million is frankly a pittance to most of these I

1054 guess full-line vehicle manufacturers.

1055 For us to be able to have a higher deterrent value,
1056 being able to not have to go into an enforcement posture in
1057 the first place, and therefore, use resources and time for
1058 investigating, we feel that a more significant penalty would
1059 frankly create a greater incentive for manufacturers to
1060 comply with the rules without us having to expend more
1061 resources to investigate and enforce.

1062 We feel that it is high time that these particular
1063 penalties are reflective of the size of the industry, and
1064 therefore, we gave technical assistance to the Senate, and we
1065 are happy that the Senate did include an increase in the
1066 civil penalty provision.

1067 Mr. {Butterfield.} Thank you. I yield back.

1068 Mr. {Strickland.} Madam Chairman, I would like to
1069 correct one thing for the record. My apologies. Your
1070 question you asked me about motorcoach belt safety, I
1071 apologize that factually the final rulemaking is within the
1072 Department of Transportation. It has not gone over to OMB
1073 yet, but we have finished our particular work. It is right
1074 now in review within the Department.

1075 Mrs. {Blackburn.} I thank you for the correction. We
1076 will note it in the record.

1077 Mr. {Strickland.} Thank you.

1078 Mrs. {Blackburn.} At this time I recognize--Ms.
1079 Schakowsky passes.

1080 Mr. Strickland, we thank you. You are always generous
1081 with your time, and we thank you for coming before us today,
1082 and with there being no further questions from the panel, we
1083 would dismiss you, and have a very brief recess while we set
1084 our third panel for the day, and, again, we thank you for
1085 your generosity of time.

1086 Mr. {Strickland.} Thank you, Madam Chairman. We look
1087 forward to working with the committee.

1088 Mrs. {Blackburn.} And our witnesses for the third
1089 panel, we are moving right along this morning, so Mr.
1090 Butterfield was just saying, well, if we had 3 minutes for
1091 each opening statement we could do this in 18 minutes, but we
1092 will not rush you. We will not rush you. I assure you.

1093 Our witnesses in the order that they will give us their
1094 testimony this morning, Mitch Bainwol, who is the President
1095 and CEO of the Alliance of Automobile Manufacturers. Next is
1096 Michael Stanton. He is the President and CEO of Global
1097 Automakers. Our third witness, Victor Parra, President and
1098 CEO of United Motorcoach Association. Our fourth witness,
1099 Peter Pantuso, President and CEO of the American Bus
1100 Association. Our fifth witness is the Honorable Joan
1101 Claybrook, former NHTSA Administrator and Consumer Co-Chair

1102 of the Advocates for Highway and Auto Safety. Our final
1103 witness is Ami Gadhia, Senior Policy Counsel at Consumer's
1104 Union, Political, and Action from Consumer Reports.

1105 We are delighted that each of you are here. We thank
1106 you for your time and for the preparation in your testimony.
1107 You are each going to be recognized for 5 minutes. I would
1108 remind you all, move the microphone toward you, touch the
1109 button to turn it on. When you see the light turn yellow on
1110 the timer, you have 1 minute to wrap up.

1111 Mr. Bainwol, you may begin.

|
1112 ^STATEMENTS OF MITCH BAINWOL, PRESIDENT AND CEO, ALLIANCE OF
1113 AUTOMOBILE MANUFACTURERS; MICHAEL STANTON, PRESIDENT AND CEO,
1114 GLOBAL AUTOMAKERS; PETER PANTUSO, PRESIDENT AND CEO, AMERICAN
1115 BUS ASSOCIATION; VICTOR PARRA, PRESIDENT AND CEO, UNITED
1116 MOTORCOACH ASSOCIATION; HON. JOAN CLAYBROOK, FORMER NHTSA
1117 ADMINISTRATOR, CONSUMER CO-CHAIR, ADVOCATES FOR HIGHWAY AND
1118 AUTO SAFETY; AND AMI V. GADHIA, SENIOR POLICY COUNSEL,
1119 CONSUMER'S UNION, POLICY, AND ACTION FROM CONSUMER REPORT.

|
1120 ^STATEMENT OF MITCH BAINWOL

1121 } Mr. {Bainwol.} Chairman Blackburn, Mr. Butterfield, on
1122 behalf of 12 leading car companies, thank you for this
1123 opportunity to testify today. I am Mitch Bainwol, President
1124 of the Alliance of Automobile Manufacturers. I represent
1125 three U.S. base companies, as well as nine iconic European
1126 and Japanese brands. Our companies sell three of four cars
1127 purchased in the U.S.

1128 I am pleased to say that our industry is leading America
1129 out of recession after a nearly catastrophic 2008 and '09,
1130 car sales were up about 10 percent each of the last 2 years,
1131 with forecasts strong for 2012 as well. Domestic and
1132 foreign-based companies are adding shifts, plants, and jobs

1133 in the United States. Exports are rising again. BMWs from
1134 South Carolina, BWs from Tennessee, Toyotas from Kentucky,
1135 Mercedes from Alabama, and Detroit three products moving
1136 literally all over the globe. All tolled eight million
1137 Americans owe their employment to this sector, at least
1138 10,000 employees in each of 47 States.

1139 So it is an honor to represent manufacturers who view
1140 safety in a very serious way and employ thousands of
1141 engineers who work every day to make the vehicles safer, and
1142 the results are striking. I think we are going to have a
1143 slide brought up. Perhaps not. There we go.

1144 [Slide.]

1145 Okay. As you can see from this slide, if a picture is
1146 worth a thousand words, a trend line tells a pretty
1147 compelling story. What you have from--on the yellow line is
1148 the vehicles miles traveled, moving from roughly 500 billion
1149 miles to 3 trillion miles from 1950 to 2010. Then you have a
1150 line going in the inverse direction, and that is the fatality
1151 rate. So it is really a stunning success story. I don't
1152 mean to say that the job is done, but I think this slide as a
1153 predicate for today's hearing really does tell a very
1154 compelling story.

1155 And I would say that the prognosis for future gains is
1156 outstanding. We are at the dawn of a new golden age in

1157 safety developments. Driver assist technologies that
1158 dramatically enhance crash avoidance are already in
1159 dealerships today. Technologies like blind spot alerts, lane
1160 departure warnings, autonomous braking, adaptive cruise
1161 control, and more.

1162 Two weeks ago I was in Sweden where I test drove a Volvo
1163 with city safety, and that is Volvo's technology that assists
1164 drivers with automatic braking in certain cases. The
1165 Insurance Institute for Highway Safety here took a snapshot
1166 of accidents with the Volvo XE60 equipped with this
1167 technology and found a 27 percent reduction in front-end
1168 collisions relative to similar vehicles. A 27 percent
1169 reduction.

1170 The implications for the safety of drivers and
1171 passengers, for insurance rates, for traffic flow, and for
1172 fuel economy is nothing short of profound, and that is just
1173 one technology. So the goal as a matter of policy must be to
1174 maximize the rate of innovation. A review of the Senate
1175 reauthorization hinges on that concept. Do the provisions
1176 enhance the ability of automakers to invent and implement new
1177 technologies or not? Do the provisions help or hinder
1178 consumers to access these new technologies?

1179 With innovation in mind we have three particular
1180 concerns with the Senate bill. First, Section 304 seeks to

1181 reverse existing NHTSA policy and recent court decisions
1182 regarding the early warning reporting data. While
1183 transparency generally is a good idea, we agree with NHTSA
1184 and the courts that existing regulations strike the right
1185 balance between publically-available data and confidential
1186 business information.

1187 The early warning system was specifically designed so
1188 that NHTSA could benefit from the widest-possible universe of
1189 information but would also be responsible for screening the
1190 data to avoid precipitating, premature, and potentially
1191 misplaced panic among drivers, and that would stimulate
1192 costly and baseless litigation and inhibit innovation.

1193 Second, relating to Section 406, the Alliance supports
1194 equipping new vehicles with event data recorders, EDRs, with
1195 sufficient lead time to implement this technology for those
1196 few manufacturers who have not yet done so. Yet 406 both
1197 requires NHTSA to conduct a study on the privacy implications
1198 from expanding the scope of the EDRs and mandates a second
1199 rulemaking in a short timeframe, regardless of the outcome of
1200 that study. Rulemaking without first concluding the study
1201 puts the cart before the horse. Congress and the public
1202 should have a clear understanding of the privacy implications
1203 as well as the cost consumers will absorb before the agency
1204 writes a new rule.

1205 And third, the Senate bill targets the auto industry in
1206 a baseless, counterproductive, and punitive fashion. It
1207 tends to signal the auto employees throughout this country
1208 that policymakers are hostile to the sector by imposing civil
1209 penalties 15 times the magnitude of penalties facing other
1210 manufacturers, also large businesses, of consumer products.
1211 The rationale for this super penalty is flawed. Its
1212 imposition would damage our ability to compete and provide
1213 jobs, and it would divert resources that would be better
1214 spent in innovation.

1215 Today the average car on the road is about 11 years old.
1216 That average car doesn't have electronic stability control.
1217 It doesn't have sophisticated airbags, it doesn't have
1218 features like voice control to keep eyes on the road and
1219 hands on the wheel. It doesn't have the new driver assist
1220 technologies that I spoke about. The average car probably
1221 gets mileage 20 percent worse than today's cars that are
1222 comparable, and it doesn't have current advanced
1223 environmental controls.

1224 The illustration makes a very simple point. The best
1225 thing we can do for consumers is not just facilitate
1226 innovation but facilitate replacing old cars with new cars
1227 for safety, for the environment, for the health of the
1228 economy we should make cars as safe, I am sorry, as

1229 affordable as possible. That, of course, means that we have
1230 to be careful not to price cars out of reach with noble
1231 intent but counterproductive regulatory access.

1232 Many thanks for this chance to participate.

1233 [The prepared statement of Mr. Bainwol follows:]

1234 ***** INSERT 3 *****

|
1235 Mrs. {Blackburn.} I thank the gentleman for yielding
1236 back.
1237 Mr. Stanton, you are recognized.

|
1238 ^STATEMENT OF MICHAEL STANTON

1239 } Mr. {Stanton.} Yes, and in the spirit of Mr.
1240 Butterfield's suggestion, I will be brief. I do want to note
1241 that the provisions that are in the House and the Senate bill
1242 that extend incentive grant funding for programs to improve
1243 safety belt use and implement alcohol and impaired driving
1244 measures, countermeasures are extremely important. We
1245 believe these programs should be funded.

1246 Generally, where the Senate has prescribed something but
1247 NHTSA is already proceeding with rulemaking, we would support
1248 the continuation of the NHTSA rulemaking, and this includes
1249 things such as brake pedal override, push button ignition
1250 systems, mandatory installation of EDRs, and pedal placement,
1251 which they are looking at. We think that is appropriately a
1252 research project and not subject for rulemaking at this time.

1253 There are a couple of provisions in the Senate bill,
1254 though, that are problematic. The bill proposes increases in
1255 non-compliance penalties reaching levels that are
1256 disproportionately higher than those under other current
1257 regulatory laws. Vehicle manufacturers take their safety
1258 compliance obligations extremely seriously, and the
1259 substantial increase in the penalty amount seems to be

1260 unnecessarily and unfairly punitive.

1261 The bill would also create a presumption in favor of
1262 public disclosure of manufacturer-submitted information
1263 relating to potential defects. This information is
1264 manufacturing quality data which has substantial competitive
1265 value. This matter has been previously and carefully
1266 considered by the agency and the courts, and we see no need
1267 to revise the balance that has been struck.

1268 The Senate bill would also add an additional civil
1269 penalty to existing criminal penalties for submitting false
1270 information and reports to NHTSA. Layering additional civil
1271 fines on top of potential criminal penalties for making false
1272 statements to the government is unnecessary and unlikely to
1273 enhance motor vehicle safety.

1274 And also the section on event data recorders is overly
1275 prescriptive. NHTSA currently has several rulemaking
1276 proceedings underway or planned to address these matters. It
1277 would be more appropriate to allow NHTSA to complete its
1278 investigations and issue rules based upon a full and
1279 comprehensive analysis of these complex matters.

1280 And finally, we believe it would be premature for
1281 Congress to mandate changes to the NHTSA recall process.
1282 NHTSA is conducting a comprehensive review of the recall
1283 process based on the Government Accountability's June 15,

1284 2011, report. Congress should refrain from imposing any new
1285 mandates on the recall process without benefit of this
1286 review.

1287 Thank you, ma'am.

1288 [The prepared statement of Mr. Stanton follows:]

1289 ***** INSERT 4 *****

|
1290 Mrs. {Blackburn.} I thank the gentleman.

1291 Mr. Pantuso, you are recognized.

|
1292 ^STATEMENT OF PETER PANTUSO

1293 } Mr. {Pantuso.} Madam Chairman, thank you for holding
1294 this hearing.

1295 ABA has been working to making bus travel safer for many
1296 years. We worked with the late Congressman Paul Gilmore and
1297 in recent years with Congressman Bill Shuster on legislation
1298 that has really formed the basis for H.R. 7 Safety
1299 Provisions.

1300 ABA represents 4,000 members, 800 of those are bus
1301 companies representing 60 percent of all the private
1302 motorcoaches on the road today. Our members provide a
1303 variety of transportation services including schedule
1304 service, charter and tour, and commuter service, and the
1305 industry provides more than 270 million passenger trips
1306 annually.

1307 It is clear that the bus industry is the safest form of
1308 surface transportation, however, accidents do happen, and we
1309 know that one fatality is one too many. ABA has reaffirmed
1310 our support for full implementation of DOT's Motorcoach
1311 Safety Action Plan. We provide member safety ratings on our
1312 website to assist consumers in finding safe bus companies,
1313 and we regularly review their records and ask unsafe

1314 companies to leave the association.

1315 ABA and its members believe there should be seatbelts on
1316 new motorcoaches. Our public comments submitted to NHTSA on
1317 this regulation are very clear.

1318 We agree with proponents of S. 1813 that advanced window
1319 glazing, roof crush strengths, emergency egress, fire
1320 detection and suppression, and stability control must be
1321 studied. If appropriate rulemaking is required, they must be
1322 initiated if they find problems in their research.

1323 But, however, the time limits in the Senate bill are
1324 just too tight. NHTSA's recent multi-year experience of
1325 developing a seatbelt standard serves as a prime example of
1326 why adequate time is needed to structure a science-based
1327 approach which includes proper research and testing to save
1328 lives.

1329 And I want to stress this point. Our goal is to save
1330 lives and ensure the viability of our industry, not to
1331 promulgate one size fits all rules. Automobiles and
1332 airplanes both have seatbelts, but both are very different
1333 types of belts, seats, and restraint systems. ABA is
1334 concerned that S. 1813's rush to get new rules out will take
1335 precedence over issuing the right rules.

1336 ABA also believes that NHTSA's multiple motorcoach
1337 rulemakings should be done in concert with one another. What

1338 we don't want to see is a rulemakings conclusion that negates
1339 the prior rulemaking safety benefits. For example, is
1340 testing determines that to enhance vehicle performance at a
1341 rollover windows should be strengthened or bonded to the
1342 coach as they are in Europe, that decision could impact
1343 adequate egress since in the U.S. windows are part of the
1344 exit systems. But if the decision is made on windows and it
1345 has already been finalized, the agency would need to restart
1346 that rulemaking process.

1347 The Senate bill also allows NHTSA to order retrofits of
1348 motorcoaches that could force a complete reengineering of the
1349 vehicle and force many small businesses out of business.
1350 Operators can comply with requirements of attaching readily-
1351 available equipment, but operators are very small business
1352 people, and much like you or I, they can no more be expected
1353 to remanufacture a coach than we could reengineer the vehicle
1354 that we purchase.

1355 We feel that early adoption of the new technology is
1356 also clear, and that tax credits, grants, and loans to small
1357 operators are key. Without this support the operators will
1358 have to bear the brunt of as much as \$70,000 in additional
1359 capital costs and unfunded mandates.

1360 ABA is concerned that the Senate bill does not have any
1361 provision for operators' liability protection in those cases

1362 where the bus operator is compliant with current federal
1363 mandates.

1364 Please know that our differences with some of the
1365 provisions of S. 1813 does not diminish our desire for a
1366 strong and robust bus safety provisions.

1367 In conclusion, Madam Chairman, I suggest that there must
1368 be also an increase in safety enforcement of existing
1369 regulations and consistent enforcement has enabled the
1370 illegal carriers to operate freely in too many markets.
1371 FMCSA must be given the authority to adequately close
1372 companies and to impound their busses if need be. Data shows
1373 that more than half of the motorcoach fatalities that have
1374 taken place over the past decade were caused either by known
1375 unsafe carriers or illegal carriers, and these fatalities
1376 should have never occurred.

1377 We applaud FMCSA for its current enforcement actions
1378 including the safety sweeps by combining federal, state, and
1379 local taskforce, and we know that working together with this
1380 committee, other committees that we can make the safest form
1381 of surface transportation even safer.

1382 Thank you.

1383 [The prepared statement of Mr. Pantuso follows:]

1384 ***** INSERT 5 *****

|

1385 Mrs. {Blackburn.} I thank the gentleman.

1386 Mr. Parra.

|
1387 ^STATEMENT OF VICTOR PARRA

1388 } Mr. {Parra.} Thank you, Chairman Blackburn, Ranking
1389 Member Butterfield, and members of the committee. I
1390 appreciate you calling this hearing today and the opportunity
1391 to appear before this committee and represent the bus and
1392 motorcoach industry. This committee has a long and
1393 distinguished record of promoting vehicle safety and lies at
1394 the center of this Nation's discourse on best practices to
1395 achieve safe and efficient travel.

1396 On behalf of the United Motorcoach Association it is my
1397 goal to provide the committee our perspective on the Bus and
1398 Motorcoach Safety Provisions included in the American Energy
1399 and Infrastructure Jobs Act, H.R. 7, as reported by the House
1400 and Transportation Infrastructure Committee, and those of S.
1401 1813, the Moving Ahead for Progress in the 21st Century as
1402 passed by the Senate last week.

1403 Founded in 1971, United Motorcoach Association is the
1404 Nation's largest association of bus and motorcoach companies
1405 and industry suppliers with over 1,200 members located across
1406 North America. Membership represents the full spectrum of
1407 bus and motorcoach operations from small family charter and
1408 tour to nationwide schedules and commuter service operations.

1409 The United States Small Business Administration
1410 estimates that over 90 percent of the privately-owned bus and
1411 motorcoach companies meet the definition of a small business.
1412 Motorcoaches have one of the strongest safety records amongst
1413 all modes of transportation with an average of only 20
1414 fatalities a year. While even one fatality is one fatality
1415 too many, the motorcoach industry operates in an environment
1416 that yields over 32,000 fatalities annually, representing
1417 less than one-tenth of 1 percent of those fatalities.

1418 UMA believes the best way to ensure improved safety is
1419 to enforce existing federal motor carrier safety regulations
1420 and support safety initiatives that are backed by science,
1421 research, and testing.

1422 While the--with the life expectancy well over 20 years,
1423 a modern motorcoach represents a financial investment of
1424 \$500,000 to \$600,000. Consequently, our industry demands
1425 vehicles that offer the best known design and construction
1426 that protects their passengers operationally from unforeseen
1427 accidents. UMA steadfastly welcomes changes in motorcoach
1428 occupant protection; however, those changes must be founded
1429 by science and testing by appropriate federal agencies. Any
1430 mode of transportation that provides 720 million passenger
1431 trips annually demands the best science and regulations our
1432 federal agencies can produce.

1433 We believe H.R. 7 provides the most rational and
1434 reasonable approach to enhanced bus and motorcoach safety.
1435 Most of its provisions were largely based on the bill
1436 authored by Congressman Bill Shuster, H.R. 1390, which we
1437 strongly support, because it recognizes the complexities of
1438 motorcoach engineering and operations, mandating that science
1439 must drive policy and not the reverse.

1440 H.R. 7 incorporates the long-standing recommendations of
1441 the National Transportation Safety Board and is consistent
1442 with the Secretary of Transportation's Motorcoach Safety
1443 Action Plan. Indeed, NHTSA is well on its way with crash
1444 tests that have resulted in proposed rulemaking, requiring
1445 three-point seatbelts for every passenger. UMA supports this
1446 proposed rulemaking.

1447 Furthermore, our industry manufacturers have been
1448 proactive in installing seatbelts. In fact, in a study that
1449 we did with our motorcoach manufacturers, we learned that
1450 about, in fact, 100 percent of the motorcoaches put in
1451 service in the last year included seatbelts.

1452 In contrast, UMA strongly opposes the Bus and Motorcoach
1453 Safety Provisions included in this 1813. We believe the
1454 safety provisions are an example of extreme government
1455 overreach and will not lead to increased motorcoach safety.
1456 Many of its mandates are overlapping, unnecessary, and are

1457 currently under, already under research and testing by
1458 federal agencies.

1459 Moreover, many of the mandates are simply unworkable
1460 within the timeframes allotted. The motorcoach tour and
1461 travel industry is an important economic engine in our
1462 country. It contributes nearly \$112 billion in total
1463 economic activity in the United States. At a time when the
1464 motorcoach industry is struggling to recover in this economy,
1465 this is not a time to impose unnecessary and excessive
1466 mandates on industry with an outstanding safety record.

1467 In conclusion, you may believe that the contrast between
1468 the Bus and Motorcoach Safety Provisions in the House bill
1469 and Senate bill could not be more striking, and we appreciate
1470 this committee's focus on that. UMA stands ready to
1471 contribute to ongoing efforts to enhance safety of bus and
1472 motorcoach operations.

1473 Thank you, Chairman Blackburn.

1474 [The prepared statement of Mr. Parra follows:]

1475 ***** INSERT 6 *****

|
1476 Mrs. {Blackburn.} I thank you, and Ms. Claybrook, you
1477 are recognized.

|
1478 ^STATEMENT OF JOAN CLAYBROOK

1479 } Ms. {Claybrook.} Thank you very much, Madam Chairman
1480 and members of the subcommittee. My name is Joan Claybrook.
1481 I am here representing the Advocates of Highway and Auto
1482 Safety, a coalition of consumer health safety and insurance
1483 companies.

1484 For the past 20 years passage of a Surface
1485 Transportation Bill under the leadership of both Republicans
1486 and Democrats has resulted in the adoption of some of the
1487 most significant advances in highway and auto safety that
1488 have literally saved thousands of lives prevented millions of
1489 injuries, saved billions of dollars in healthcare and
1490 societal costs, and this year's bill should be no different.

1491 For these reasons we want to move forward with this
1492 unfinished agenda that we have spelled out in our full
1493 statement. The Senate passed Transportation Bill S-1813 or
1494 MAP-21 as it is called, adopted with strong bipartisan
1495 support, includes many important vehicle safety protections
1496 for families whether they are traveling by car or by
1497 intercity motorcoach.

1498 The MAP Bill which we support requires NHTSA to issue
1499 new safety standards to ensure complex electronic systems

1500 that control the vehicle meet minimum quality and safety
1501 concerns as they must today in aircraft. Other provisions
1502 would require vehicle brake systems that can always overrun
1503 accelerator control and foot pedals for the brake and
1504 accelerator that are not located too closely together.

1505 Additionally, the bill would ensure consumers have
1506 better access to agency information about safety-related
1507 data, recalls, and defects. Other provisions addressed,
1508 whistleblower protection, conflicts of interest by former
1509 NHTSA employees, and corporate accountability for document
1510 submissions to ensure that the government safety
1511 investigations proceed without impediment.

1512 It also directs agency actions to better protect
1513 children inside impact crashes, improve child-restraint
1514 anchoring systems, increase seatbelt usage with rear seatbelt
1515 reminders, and address the risk of horrific death among young
1516 children inadvertently left behind in hot vehicles.

1517 Nearly 725 million motorcoach trips are taken annually,
1518 almost matching the number of airline trips taken annually,
1519 and as one of my colleagues here said, motorcoaches stay on
1520 the highway for about 20 years. So when you make an
1521 improvement of safety in a motorcoach, it is going to do a
1522 safety protection for people day after day, year after year
1523 after year. And the total cost the Senate bill is 10 cents a

1524 trip. I am sure that every American would be willing to pay
1525 10 cents a trip to be assured of the safety protections in
1526 that Senate bill.

1527 Unfortunately, motorcoaches are not held to the same
1528 high safety standard as passenger vehicles or commercial
1529 aviation today. Because motorcoaches carry up to 55
1530 passengers, when a crash does occur, it is both catastrophic
1531 and it is deadly. Attached to my statement is a chart
1532 describing over 178 motorcoach crashes since 1990, that have
1533 killed 317 people and injured 3,000. For more than 40 years
1534 the National Transportation Safety Board, that we rely on for
1535 these issues, has investigated fatal motorcoach crashes and
1536 issued numerous recommendations, many on the agency's most
1537 wanted list, most wanted to be installed in new vehicles.

1538 Yet these recommendations to improve occupant protection
1539 in a crash have been ignored or delayed at the Department of
1540 Transportation. We know what to do to protect them, the
1541 people who ride in these buses, an enactment of the MAP-21
1542 directs DOT to take actions with many reasonable deadlines on
1543 many of the most critical NTSB recommendations.

1544 The motorcoach safety language adopted by the Senate
1545 includes what we call the Greyhound Compromise, which was
1546 negotiated and agreed to last summer. Not only did Greyhound
1547 endorse the occupant protection provisions of the bill, but

1548 Mr. David Leach, Greyhound CEO, stood with family members,
1549 Senators of both parties, and safety groups and stated that
1550 these improvements should be adopted industry wide and that
1551 Greyhound supported, ``the strongest safety legislation,``
1552 not, ``the weakest.``

1553 The most effective legislation to correct deadly and
1554 dangerous deficiencies is contained in MAP-21. My prepared
1555 statement goes into great detail about this and compares the
1556 provisions with H.R. 7.

1557 Unfortunately, Motorcoach Safety Provisions in H.R. 7
1558 are not as comprehensive or specific and include unnecessary
1559 delays and protracted deadlines. On the other hand, the
1560 Greyhound Compromise requires timely action on key NTSB
1561 recommendations that will ensure passengers are protected
1562 with seatbelts, anti-ejection window glazing, roof crush
1563 protection, tire pressure monitoring systems, and roll-over
1564 protection--prevention technology. And I would say that roll
1565 over is the source of most severe cause of injury in over 50
1566 percent of these crashes.

1567 These safety technologies are affordable costs, and as I
1568 mentioned a dime per passenger trip and are already available
1569 as optional equipment on--by motorcoach manufacturers who do
1570 not oppose the Senate bill. There is no excuse for delaying
1571 any longer. We strongly urge the subcommittee to support the

1572 provisions of MAP-21.

1573 Thank you so much for the opportunity to testify.

1574 [The prepared statement of Ms. Claybrook follows:]

1575 ***** INSERT 7 *****

|
1576 Mrs. {Blackburn.} Thank you, Ms. Claybrook.

1577 Ms. Gadhia.

|
1578 ^STATEMENT OF AMI V. GADHIA

1579 } Ms. {Gadhia.} Good morning, Chairman Blackburn.

1580 Mrs. {Blackburn.} Slide the microphone a little closer.

1581 Ms. {Gadhia.} Is that better?

1582 Mrs. {Blackburn.} That is perfect.

1583 Ms. {Gadhia.} Good morning, Chairman Blackburn and

1584 Ranking Member Butterfield. My name is Ami Gadhia, and I am

1585 Senior Policy Counsel with Consumer's Union, the public

1586 policy and advocacy arm of Consumer Reports.

1587 CU believes that the vehicle safety provisions passed by

1588 the Senate as a part of its Surface Transportation Bill will

1589 provide NHTSA with critical new authorities to help promote

1590 consumer vehicle safety.

1591 However, CU also believes that there are ways in which

1592 the Senate language can be further strengthened to address

1593 certain critical consumer safety issues and urges the House

1594 to include these additional provisions in its own bill.

1595 CU supports the requirement that NHTSA issue rules

1596 regarding vehicle stopping distance, brake override, and

1597 pedal placement. We have recommended the issuance of safety

1598 standards in these areas for several years and believe that

1599 their adoption will provide important safety features in

1600 passenger vehicles.

1601 We are also glad to see a proposal to establish a
1602 council for vehicle electronics, vehicle software, and
1603 emerging technologies, and a proposal to require NHTSA to set
1604 a performance standard for electronic systems in cars.

1605 We support the provisions for grants to states that
1606 enact and enforce anti-distracted driving laws and graduated
1607 driver's licensing laws for teenagers. We also strongly
1608 support a requirement that NHTSA prioritize the setting of
1609 new safety standards for car seats for children as well as
1610 prioritize performing new research into emerging child safety
1611 concerns.

1612 CU applauds provisions making improvements to NHTSA's
1613 public database of consumer safety reports. This database is
1614 a vital tool for NHTSA, automakers, safety advocates, and the
1615 public to identify emerging hazard trends. This tool, in
1616 turn, can help save lives.

1617 However, this database has not been as consumer friendly
1618 or as organized as it could be. The Senate passed a bill
1619 that changes this by requiring NHTSA to improve the
1620 database's organization, functionality, and searchability.
1621 Consumers will also benefit if NHTSA makes vehicle recall
1622 information available on the web and if the agency makes this
1623 recall information searchable by make, model, and VIN. All

1624 of these changes will make a big difference for consumers
1625 seeking information about the safety of the cars they own or
1626 plan to purchase.

1627 Recall efficacy is another important issue. According
1628 to NHTSA, the average consumer response rate to vehicle
1629 recalls is roughly 70 percent. Giving NHTSA the authority to
1630 require manufacturers to issue additional recall notices and
1631 to take additional steps to locate and notify each individual
1632 registered as the owner or leasee can also help improve
1633 recall completion rates, thereby helping to make our roads
1634 safer.

1635 We also support making data gathered under NHTSA's Early
1636 Warning Reporting System available to the public. We have
1637 previously recommended that consumer complaint numbers
1638 submitted by manufacturers to NHTSA under the EWR System
1639 should be made by public by NHTSA and should be easily
1640 searchable.

1641 Requiring EDRs or Event Data Recorders in all new cars
1642 from model year 2015, onwards with appropriate privacy
1643 controls and disclosures will mean that more of these data
1644 can help police and accident investigators reconstruct what
1645 happened in a crash.

1646 Finally, in the event that a manufacturer violates the
1647 law, raising the maximum civil penalty that NHTSA could levy

1648 for violations from \$17 million to \$250 million will help act
1649 as a deterrent against future violations that imperil public
1650 safety. It should be noted that the \$250 million figure is
1651 the outermost limit of what NHTSA could possibly fine a
1652 company for a series of violations.

1653 As noted, we are happy to see several of our
1654 recommendations in the Senate-passed bill, but there are
1655 additional elements that are missing that we urge the
1656 committee to take up as it considers Surface Transportation
1657 legislation.

1658 First, gear shifters should be designed so that a driver
1659 can quickly identify the neutral position and easily shift
1660 gears to regain control of a car in a panic situation. There
1661 are also additional improvements needed in the child safety
1662 seat standards that NHTSA administers. CU recommends that
1663 the agency revise FMVSS 225 to allow anchors and tethers to
1664 be used with car seats for children to at least 65 pounds or
1665 greater.

1666 We next urge the House to include in its legislation
1667 language requiring rental car companies to make any recall-
1668 related repairs before they rent cars to consumers.
1669 Regarding distracted driving, NHTSA is currently in the
1670 process of finalizing its in-car distraction guidelines for
1671 manufacturer. In order to ensure the widest application of

1672 these guidelines, CU recommends that the guidelines be
1673 incorporated into NHTSA's New Car Assessment Program or NCAP.

1674 CU would also like to see vehicle roof strength and seat
1675 back strength requirements improved. Specifically, we would
1676 like to see a dynamic rollover test, not simply a static roof
1677 crush test as is currently the case.

1678 As the House moves forward with its consideration of its
1679 own bill, the CU urges you to include those provisions
1680 described in your legislation as well as the additional
1681 provisions we have described.

1682 We thank the committee for the opportunity to present
1683 our recommendations and look forward to assisting you as you
1684 move forward.

1685 [The prepared statement of Ms. Gadhia follows:]

1686 ***** INSERT 8 *****

|
1687 Mrs. {Blackburn.} Thank you for your testimony.

1688 At this time we are going to recess to go vote. We have
1689 got just under 2 minutes left on the clock to cast our vote.
1690 What we are going to try to do is cast the vote and come back
1691 during the recommittal. We will see how that works when we
1692 get to the Floor. We have got three amendment votes and then
1693 a recommittal.

1694 So our goal is to not hold you needlessly. We do have
1695 some questions we would like to get on the record, but at
1696 this time we will consider the committee in recess.

1697 [Recess.]

1698 Mrs. {Blackburn.} I will call us back into order, in
1699 session. Thank you all for bearing with us and recognize
1700 myself for 5 minutes for questions.

1701 Mr. Bainwol and Mr. Stanton, I would like to begin with
1702 you. We have talked about the safety mandates in the Senate
1703 bill. Mr. Strickland has talked about some of the safety
1704 guidelines. I know many of those came from the industry, but
1705 I want to look specifically at the safety mandates that are
1706 in the Senate version of the bill right now, and what I would
1707 like to know going back to your comment, Mr. Bainwol, about
1708 affordability of safe cars, what would these mandates, what
1709 would they add to the sticker price of a new car, and then

1710 how do the new regulatory mandates affect your efforts and
1711 your abilities to develop and implement your own safety
1712 technologies that you bring forward through R&D, and then the
1713 third component of this since we are looking at the average
1714 age of a car on the road right now being 10-1/2 years, do you
1715 have concerns regarding the increasing costs and
1716 affordability of cars and whether that puts the price of
1717 safety beyond the means of many Americans in this economy?

1718 So, Mr. Bainwol and then Mr. Stanton.

1719 Mr. {Bainwol.} There is a lot to that, but let me try
1720 to unpack it a bit. I do think the critical thing here is
1721 making sure that we can trigger the replacement process.
1722 Mandates that build the cost of a vehicle that make it
1723 unaffordable means that we are not realizing the objective,
1724 which is to save lives, and so I think everybody at the table
1725 has a common objective, and that is how do you maximize the
1726 savings of live, and for us that means a prudent, data-driven
1727 process where you make priorities and you determine where you
1728 get the most bang for the buck, and you do the research to
1729 make sure that there is no unintended consequences and that
1730 it is efficacious and that there will be a consumer demand
1731 for it.

1732 What that really means in short is that from a practical
1733 perspective we think NHTSA's plan is a pretty good one, and

1734 we think that the notion of adding political regulatory
1735 earmarks, which is basically what the Senate has done, is not
1736 a great idea because it interferes with the ability to
1737 execute the NHTSA plan. It does raise costs. We can't
1738 really project what the cost would be because we don't know
1739 how they would define the mandate, but it does raise cost.
1740 It does confuse the mission, and I don't think it leads to an
1741 outcome that we all prefer which is safer cars.

1742 Mrs. {Blackburn.} Thank you. Mr. Stanton.

1743 Mr. {Stanton.} Yeah. I would put it in a little bit
1744 bigger context as you know that we have, are on the chart to
1745 hit 54-1/2 miles per gallon by 2025, and the cost increase
1746 that the government estimated just to go to the 2016, would
1747 be about \$1,000 per car and from 2017, to 2025, about another
1748 \$2,000, and I just testified before the National Academy of
1749 Sciences, and they are looking at standards from 2010, to
1750 2030, and where we are going, and I think we are working with
1751 the Administration on fuel cell vehicles and EVs and
1752 California wants 15.4 percent of their vehicles to be
1753 electric vehicles or fuel cell vehicles by 2025.

1754 So there is costs that are involved in that, and then
1755 when you add the safety requirements, and our organization
1756 and all of our members are really about enhancing vehicle
1757 safety. We have been working with NHTSA on all of the

1758 rulemakings. We, as my testimony I hope conveyed, is that we
1759 don't want fruitless requirements or redundant requirements,
1760 but the affordability at the end of the day. We are doing
1761 okay. I mean, 2009 was a really bad year, '10 was a little
1762 bit better, '11 and '12, we are looking now maybe at 13-1/2
1763 million units, and that is good for the industry, but we need
1764 to keep the affordability of the vehicles, the affordability
1765 has to be there, or we will not accomplish our fuel
1766 efficiency goals or our safety goals.

1767 So it is a big concern, and as we go through it, we work
1768 with our member companies and we work with the regulators to
1769 make sure that we get the best value for the buck.

1770 Mrs. {Blackburn.} Thank you, and I only have 27 seconds
1771 left, but at this time, Mr. Butterfield, I am going to yield
1772 to you for questions.

1773 Mr. {Butterfield.} Thank you.

1774 Motorcoach ridership is up, and yet motorcoaches are not
1775 being held to the same safety standards as passenger
1776 vehicles. H.R. 7 does not require bus manufacturers to
1777 comply with key safety requirements for 6 years after
1778 enactment, and operators are not required to fully adopt the
1779 new buses for 18 years.

1780 Ms. Claybrook, is that correct or incorrect?

1781 Ms. {Claybrook.} That is correct. The 18-year

1782 provision is for retroactivity. The 6 years is for the new
1783 buses.

1784 Mr. {Butterfield.} And what is your take on all of
1785 this?

1786 Ms. {Claybrook.} Well, my take is that the National
1787 Transportation Safety Board for 40 years has been telling
1788 both the Department of Transportation and the bus industry to
1789 improve their bus safety, and very, very little has ever
1790 happened. And I don't think it is going to happen unless you
1791 have these mandates.

1792 The compromise that the consumer groups and the families
1793 of the victims had with the--in the Senate bill were very
1794 reasonable. It was signed off on by the Greyhound
1795 Corporation, the CEO personally, said it was totally
1796 feasible, and we think that that, the Senate bill then with
1797 that compromise in it is perfect and that anything less than
1798 that is unfortunate.

1799 And as I mentioned, the cost of the Senate bill is 10
1800 cents per passenger. This is an industry that has huge
1801 numbers of passenger riders every year. These buses last for
1802 20 years. If you fix them up, they are going to provide
1803 safety again and again and again, day after day after day.
1804 And so it is well worth the investment.

1805 Mr. {Butterfield.} Thank you. All right. Number two.

1806 A number of provisions in the Senate bill were based on
1807 technical assistance provide by NHTSA. Administrator
1808 Strickland's testimony mentioned one such provision, giving
1809 NHTSA new authority to address hazards caused by vehicles or
1810 equipment imported by an entity other than the original
1811 manufacturer.

1812 Ms. Gadhia, and I may be mispronouncing that, do you
1813 believe that it is important for NHTSA to be able to work
1814 with Homeland Security to take action against imported
1815 vehicles or vehicle equipment that may be hazardous? What
1816 types of limitations are we currently facing in ensuring that
1817 imported goods do not violate consumer protection laws?

1818 Ms. {Gadhia.} Yes. I think that is an important
1819 addition in the Senate legislation. Obviously you have got
1820 concerns, and consumers would like to know that the vehicles
1821 that they are driving, whether domestically produced or
1822 foreign imports, are meeting all the safety requirements.
1823 And what I do understand also is that in the Senate
1824 legislation that particular section regarding import safety
1825 makes the provision that if a car due to be imported is
1826 subject to a recall and that recall repair is made, that
1827 there is no longer any kind of holdup. So we think that is
1828 an appropriate consumer protection.

1829 Mr. {Butterfield.} All right. I am going to yield

1830 back.

1831 Mrs. {Blackburn.} Mr. Butterfield yields back.

1832 Ms. Schakowsky for 5 minutes.

1833 Ms. {Schakowsky.} Thank you. Mr. Bainwol, I wanted to
1834 ask you a question, but let me just first say that I think, I
1835 hope all of us are happy that the automobile industry is
1836 doing well. I was one of those proud to support the support
1837 for the industry and glad to see the industry back on its
1838 feet big time.

1839 At the end of your testimony you said safer but you
1840 really meant affordable, had to correct yourself. I think
1841 consumers don't want to have to choose particularly, but you
1842 said in your testimony, I want to quote, ``As a Nation we can
1843 better utilize the full benefits of vehicle safety
1844 technologies when we get vehicle occupants properly
1845 restrained and drunk drivers off the road while safety belt
1846 usage is increasing. Only half the vehicle occupants killed
1847 in crashes, over half of vehicle occupants killed in crashes
1848 are not restrained by safety belts or child safety seats.''

1849 And then on page seven of your testimony you state that
1850 Section 31503 of the Senate bill, which would require a rear
1851 seatbelt reminder system, should be deleted.

1852 You know, I find that really contradictory and
1853 hypocritical frankly. Would you respond?

1854 Mr. {Bainwol.} Sure. I would be delighted to. It is
1855 true, and you can slice the data a number of different ways,
1856 but it definitely true that of the 32, 33,000 fatalities that
1857 a huge proportion of those come from either drunk driving or
1858 folks who are not seat belted or some combination, and so to
1859 pin the exact number is a little tough because you have both
1860 causalities.

1861 So point one is dealing with both of those behavioral
1862 questions is probably the best thing we can possibly do to
1863 improve--

1864 Ms. {Schakowsky.} Okay. I have very limited time.
1865 Okay. So we agree on that.

1866 Mr. {Bainwol.} I am trying to be responsive. So the
1867 best thing we can do is deal with these behavioral problems.

1868 Ms. {Schakowsky.} Okay.

1869 Mr. {Bainwol.} The seatbelt issue to which you refer--

1870 Ms. {Schakowsky.} Uh-huh.

1871 Mr. {Bainwol.} --is an element of that issue, but it is
1872 really not the same issue. We are talking about latches, I
1873 believe, that--are you talking about the latches?

1874 Ms. {Schakowsky.} No. I am talking about--

1875 Mr. {Bainwol.} Rear seatbelt warnings.

1876 Ms. {Schakowsky.} Yes.

1877 Mr. {Bainwol.} Okay. As I understand the rear seatbelt

1878 warnings are now part of NHTSA's rulemaking plan, one.

1879 Ms. {Schakowsky.} Well, Ms. Claybrook, would you
1880 comment on that?

1881 Ms. {Claybrook.} There is no reason if you have belt
1882 reminders in the front seat not to have them in the backseat.
1883 In the backseat you have children primarily who are riding.
1884 I don't understand why the industry is behaving this way.

1885 In fact--

1886 Ms. {Schakowsky.} No, no. You are done. I am asking
1887 Ms. Claybrook now.

1888 Ms. {Claybrook.} In fact, the belt reminders have
1889 really worked, and we should protect the most precious cargo
1890 in the vehicle, and that is our children.

1891 Ms. {Schakowsky.} Let me ask you another questions.
1892 Isn't it true that auto industry initially resisted seatbelts
1893 altogether, airbags, and now use, now market the safety
1894 vehicles that they produce as something good? So is a
1895 market-driven approach to safety the way to go?

1896 Ms. {Claybrook.} No. Well, market only, you mean? No.

1897 Ms. {Schakowsky.} Yeah.

1898 Ms. {Claybrook.} You have to require them because the
1899 industry has been a reluctant partner in safety forever, and
1900 when you have the clarity of a statutory requirement, it is
1901 wonderful for the industry in many ways. They stop fussing

1902 and fuming, and they get around to doing the engineering.
1903 And that is what we really want is for them to have a clear
1904 mandate that gives them a deadline and then they know they
1905 have to do it, and they stop trying to use their lawyer, and
1906 they start using their engineers.

1907 Ms. {Schakowsky.} All right. Let me get to the latch,
1908 and I wanted to ask Ms. Gadhia and good luck on your new
1909 addition to the family.

1910 Ms. {Gadhia.} Thank you.

1911 Ms. {Schakowsky.} The safety of child-restraint systems
1912 has come a long way. There is no question, and many parents
1913 now use the latch system to install car seats, but the latch
1914 system approved weight limits are lower than the weight limit
1915 on many car seats that are being installed using latch. The
1916 Senate bill has provisions suggesting the use of larger car
1917 seats and older and heavier children using them.

1918 I wonder if you could speak on the importance of these
1919 efforts, and do you think that most parents know that their
1920 car seats may be, may need to be reinstalled as their child
1921 ages?

1922 Ms. {Gadhia.} The provisions in the Senate bill are
1923 absolutely critical, and we appreciate that. We appreciate
1924 the Senate provisions and what they do require NHTSA to do
1925 with regards to child safety seats.

1926 What is also critical is making sure that NHTSA is
1927 exploring a dynamic side impact test with regards to child
1928 safety seats, but I think you are absolutely right, that
1929 consumers are not aware with the compatibility of those latch
1930 anchors, those latch tethers which are so important for
1931 safety with car seats, and that is something that is
1932 partially addressed by the Senate bill, but we would also
1933 like to see NHTSA further address.

1934 Mrs. {Blackburn.} I want to thank our witnesses for
1935 being with us today and to remind our members that there are
1936 10 days to submit questions. I know many of us have
1937 additional questions. I know that some of you have
1938 additional comments that you would like to submit for the
1939 record, so we will have that 10 days, but in order to keep
1940 from holding you here through a new series of votes, we are
1941 going to complete our work.

1942 And I am going to ask unanimous consent to include into
1943 the hearing record the statement of Representative Bill
1944 Shuster and statements from the following organizations, all
1945 of which we have shared in advance with the minority. The
1946 Rubber Manufacturers Association, the Motor and Equipment
1947 Manufacturer's Association, Dorel Juvenile Group, Anchor
1948 Trailways and Tours, National Automobile Dealers'
1949 Association, Owner Operator Independent Drivers Association.

1950 So ordered.

1951 [The information follows:]

1952 ***** COMMITTEE INSERT *****

|
1953 Mrs. {Blackburn.} We, again, thank you. We look
1954 forward to continuing a hearing next week. We are going to
1955 be looking at some of the privacy issues that are in front of
1956 us.

1957 Your patience has been appreciated, and we appreciate
1958 the information you brought to us.

1959 Hearing is adjourned.

1960 [Whereupon, at 12:14 p.m., the Subcommittee was
1961 adjourned.]