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FOR IMMEDIATE RELEASE

OCTOBER 28, 1974

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

I have signed S. 355, the Motor Vehicle and Schoolbus Safety Amendments of 1974.

This act renews our national commitment to the promotion of highway safety, a goal shared not only by the Congress and my Administration, but by every American. Last year, more than 56,000 people lost their lives on America's highways. Although the accident and death rates on our highways are declining, we can never be satisfied with the level of tragic loss and injury on our roads.

By signing S. 355, I believe we will accelerate our commitment to reduce deaths and injuries on the highway. It authorizes \$55 million for the current fiscal year and \$60 million for fiscal year 1976 to carry out the important mandate contained in the National Traffic and Motor Vehicle Safety Act of 1966.

In addition, this act establishes procedures for the remedy and recall of certain defective motor vehicles without any charge to the owner. As for the very important matter of schoolbus safety, this act requires the Department of Transportation to establish minimum schoolbus safety standards within fifteen months. I think we can do the job faster, and I have asked Secretary of Transportation, Claude Brinegar, to try to have the standards out before the end of next summer.

Finally, this act also does away with the so-called seat belt interlock systems. This system had the laudable goal of encouraging motorists to wear their safety belts. In practice, however, it has proved to be intensely unpopular with the American motorist. I can fully understand why drivers might object to being forced by the Federal Government, in effect, to buckle up. This constitutes an unacceptable governmental intrusion into the life of the individual.

However, in signing this removal of the interlock system, I am in no way encouraging drivers to desist from using their seat belts. To the contrary, safety restraints save lives and prevent injuries. I give my strongest recommendation that all Americans follow the sound advice which tells us to "buckle up for safety."

To emphasize my concern for highway safety, I want also to remind every American to observe sensible driving speeds and especially not to exceed 55 miles per hour. As we all know, the lowering of the highway speed limit has saved lives and conserved energy. Saving lives, saving fuel, and saving the motorist money in the operation of his vehicle are goals we can all find worthy in the months ahead.

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93D CONGRESS }
1st Session }

SENATE

{ REPORT
No. 93-150

MOTOR VEHICLE DEFECT REMEDY
ACT

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE

ON

S. 355

TO AMEND THE NATIONAL TRAFFIC AND MOTOR
VEHICLE SAFETY ACT OF 1966 TO PROMOTE TRAFFIC
SAFETY BY PROVIDING THAT DEFECTS AND FAIL-
URES TO COMPLY WITH MOTOR VEHICLE SAFETY
STANDARDS SHALL BE REMEDIED WITHOUT CHARGE
TO THE OWNER, AND FOR OTHER PURPOSES



MAY 14, 1973.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1973

MOTOR VEHICLE DEFECT REMEDY ACT

MAY 14, 1973.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Commerce, submitted the following

REPORT

[To accompany S. 355]

The Committee on Commerce, to which was referred the bill (S. 355) to amend the National Traffic and Motor Vehicle Safety Act of 1966 to provide for remedies of defects without charge, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

TEXT OF S. 355 AS REPORTED

That this Act may be cited as the "Motor Vehicle Defect Remedy Act".

SEC. 2. Section 108(a)(4) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1397) is amended to read as follows:

"(4) fail to furnish notification, fail to remedy any defect or failure to comply, fail to maintain records, or fail to meet any other obligation imposed upon any manufacturer, distributor, or dealer pursuant to section 113 of this Act."

SEC. 3. Section 113 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1402) is amended to read as follows:

"DISCOVERY, NOTIFICATION, AND REMEDY OF MOTOR VEHICLE DEFECTS

"SEC. 113. (a) REQUIREMENT OF NOTICE.—For purposes of this section, the retreader of tires shall be deemed the manufacturer of tires which have been retreaded, and the brand name owner of tires marketed under a brand name not owned by the manufacturer of the tire shall be deemed the manufacturer of tires marketed under such brand name. Every manufacturer of motor vehicles or tires shall furnish notification to the purchaser of such motor vehicle or item of motor vehicle equipment, pursuant to subsection (b) of this section, if—

"(1) such manufacturer discovers that any motor vehicle or item of motor vehicle equipment produced by such manufacturer—

"(A) contains a defect and determines in good faith that such defect relates to motor vehicle safety; or

"(B) does not comply with an applicable Federal motor vehicle safety standard prescribed pursuant to section 103 of this Act: or

"(2) the Secretary determines, through testing, inspection, investigation, or research carried out pursuant to this Act, through examination of communications pursuant to subsection (c) of this section, or through other means, that any motor vehicle or item of motor vehicle equipment produced by such manufacturer—

"(A) contains a defect which relates to motor vehicle safety; or

"(B) does not comply with an applicable Federal motor vehicle safety standard prescribed pursuant to section 103 of this Act.

"(b) CONTENTS, TIME, AND FORM OF NOTICE.—(1) The notification required by subsection (a) of this section shall contain, in addition to such other matters as the Secretary may prescribe by regulation—

"(A) a clear description of the defect in any motor vehicle or motor vehicle equipment or of the failure to comply with any applicable motor vehicle safety standard;

"(B) an evaluation of the risk to traffic safety reasonably related to such defect or failure to comply;

"(C) a statement of the measures to be taken to remedy such defect or failure to comply;

"(D) a statement that the named manufacturer shall cause such defect or failure to comply to be remedied without charge pursuant to subsection (e) of this section;

"(E) the date when such defect or failure to comply will initially be remedied without charge and, in the case of tires, the final date when such defect or failure to comply will be remedied without charge pursuant to subsection (e) of this section; and

"(F) a description of the procedure to be followed in informing the Secretary whenever a manufacturer, distributor, or dealer fails or is unable to remedy without charge such defect or failure to comply.

"(2) The notification required by subsection (a) of this section shall be furnished within a reasonable time after—

"(A) the discovery of the defect or failure to comply by the manufacturer, pursuant to subsection (a)(1) of this section;

"(B) the Secretary's determination of the defect or failure to comply pursuant to subsection (a)(2) of this section or subsection (g) of this section, if applicable.

"(3) The notification required by subsection (a) of this section shall be accomplished—

"(A) by certified mail to—

"(i) the first purchaser (not including any dealer of such manufacturer) of the motor vehicle or motor vehicle equipment containing such defect or failure to comply,

"(ii) any subsequent purchaser of such vehicle or equipment to whom has been transferred any warranty thereon,

"(iii) any other person who is a registered owner of such vehicle or equipment and whose name and address is reasonably ascertainable through State records or other sources available to such manufacturer; and

"(B) by certified mail or other more expeditious means to the dealer or dealers of such manufacturer to whom such motor vehicle or motor vehicle equipment was delivered.

"(c) INFORMATION AND DISCLOSURE.—Every manufacturer of motor vehicles or tires shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the dealers of such manufacturer or to the purchasers of motor vehicles or motor vehicle equipment produced by such manufacturer regarding any defect in such vehicle or equipment which is sold or serviced. The Secretary shall disclose so much of any information referred to under this subsection, subsection (a) of this section, or section 112(a) of this Act to the public as he determines will assist in carrying out the purposes of this Act, but he shall not disclose to the public any information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, unless he determines that it is necessary to carry out the purposes of this Act.

"(d) RECORDS OF FIRST PURCHASER.—Every manufacturer of motor vehicles or tires shall maintain records of the names and addresses of the first purchaser (other than a dealer or distributor) of motor vehicles or tires produced by such manufacturer. The Secretary may establish, by order, procedures to be followed by manufacturers in establishing and maintaining such records, including pro-

cedures to be followed by distributors and dealers to assist manufacturers to secure the information required by this subsection except that the availability or not of such assistance shall not affect the obligation of manufacturers under this subsection. Such procedures shall be reasonable for the particular type of motor vehicle or tires for which they are prescribed.

"(e) REMEDY OF DEFECT OR FAILURE TO COMPLY.—If—

"(1) any motor vehicle (including any item of original motor vehicle equipment) or tire is determined by its manufacturer, pursuant to subsection (a)(1) of this section, to contain a defect or failure to comply which relates to motor vehicle safety; or

"(2) the Secretary determines, pursuant to subsection (a)(2) of this section, or under subsection (g) of this section, if applicable, that any motor vehicle or item of motor vehicle equipment contains a defect which relates to motor vehicle safety or does not comply with any applicable motor vehicle safety standard prescribed under this Act,

then, after the notification required by subsection (a) of this section is furnished as provided in subsection (b) of this section, the manufacturer of such motor vehicle or tire presented for remedy pursuant to such notification shall cause such defect or failure to comply in such motor vehicle (including any item of original motor vehicle equipment), such item of motor vehicle equipment, or such tire to be remedied without charge. In the case of a tire presented for remedy pursuant to such notification, the manufacturer of each such tire shall replace such tire without charge for a period up to sixty days after receipt of such notification or sixty days after replacement tires are available, whichever is later. In the case of a motor vehicle presented for remedy pursuant to such notification, if the defect or failure to comply cannot be adequately remedied, the Secretary shall require the manufacturer, at the manufacturer's option, either to—

"(A) replace such motor vehicle without charge with a new or equivalent vehicle, or

"(B) refund the purchase price of such motor vehicle in full less a reasonable allowance for depreciation.

The dealer or retailer who performs such remedy work without charge shall receive fair and equitable reimbursement for such work from such manufacturer. The requirement of this subsection that such remedy work be performed without charge shall not apply if a determination is made under subsection (g) of this section that the defect or failure to comply is de minimus, or if such motor vehicle or item of motor vehicle equipment was purchased by the first purchaser (not including any dealer of a manufacturer) more than eight calendar years before the manufacturer receives notification from the Secretary, pursuant to paragraph (1) of subsection (g) of this section, of defect or failure to comply.

"(f) APPROVAL AND IMPLEMENTATION OF REMEDY PLAN.—(1) The Secretary shall approve with or without modification, after consultation with the manufacturer of such motor vehicle or tires, such manufacturer's remedy plan including the date when and the method by which the notification and remedy required pursuant to this section shall be effectuated. Such date shall be the earliest practicable one but shall not exceed sixty days from the date of discovery or determination of the defect or failure to comply pursuant to subsection (a) of this section or under subsection (g) of this section, if applicable, unless the Secretary grants an extension of such period for good cause shown and publishes a notice of such extension in the Federal Register. Such manufacturer is bound to implement such remedy plan as approved by the Secretary.

"(2) Upon application in writing by such manufacturer, the Secretary may approve any amendment or modification of such plan for good cause shown provided notice of such modification is reasonably publicized by such manufacturer. The Secretary shall cause each such application and the decision rendered on such application to be published in the Federal Register within five days of receipt or issuance. As used in the paragraph, 'good cause' means unavoidable delay due to strikes, catastrophe, or natural disaster.

"(g) PROCEEDINGS.—(1) The Secretary shall immediately notify such manufacturer of his determination under subsection (a)(2) of this section of the defect or failure to comply and shall supply a statement of his reasons and the basis for the findings. Such determination, reasons, and findings shall be published immediately in the Federal Register. At the same time, the Secretary shall make available to the manufacturer and any interested person all information, subject to the provisions of subsection (c) of this section, upon which the findings are based. Within seven days after the manufacturer receives notification pursuant to

this paragraph such manufacturer may file a petition to initiate a proceeding to establish to the satisfaction of the Secretary that—

“(A) such motor vehicle or item of motor vehicle equipment does comply with such standard or does not contain a defect which relates to motor vehicle safety; or

“(B) such defect or failure to comply is de minimis in its impact on the number of traffic accidents and deaths and injuries to persons resulting from traffic accidents.

A proceeding on such petition shall commence within twenty-one days of the date of the determination and such date shall be announced publicly. A record of the proceeding shall be maintained. The proceeding shall be structured to proceed as expeditiously as possible while permitting the manufacturer and all interested persons an opportunity to present their views. Participants shall be given a limited right to cross-examine experts on matters directly related to the issues of defect or failure to comply. For purposes of this subsection, ‘a limited right to cross-examine’ means that the Secretary may set such conditions and limitations on cross-examination as he deems necessary to assure fair and expeditious consideration of the contested issues. All testimony shall be presented by affidavit or orally under oath, pursuant to regulations issued by the Secretary, and the Secretary may require that persons with the same or similar interests appear together by a single representative. Within fourteen days of the conclusion of the proceeding, the Secretary shall issue his decision on the petition with a statement of his reasons. If such decision affirms the original determination of the Secretary, under subsection (a)(2) of this section, the Secretary shall direct such manufacturer to furnish forthwith the notification required by such subsection. The Secretary’s decision and reasons shall be published immediately in the Federal Register.

“(2) Except as otherwise provided in this paragraph, any person who is aggrieved by the decision in a proceeding under this subsection may appeal a decision of the Secretary upon the filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit. Such petition shall be filed within twenty days after the Secretary’s decision. In any such review the factual findings of the Secretary shall be sustained if supported by substantial evidence on the record considered as a whole. The Secretary shall file the record on which his findings are based within twenty days of the date the petition for review is filed. The court shall expedite the disposition of such petition for review. The Secretary’s determination that a defect or failure to comply is or is not de minimis in its impact is not reviewable under this paragraph.

“(h) IMMINENT HAZARD.—(1) The Secretary may file an action against—

“(A) an imminently hazardous motor vehicle or item of motor vehicle equipment for seizure of such vehicle or equipment under paragraph (2)(B) of this subsection; and

“(B) a manufacturer, distributor, or dealer of such motor vehicle or item of motor vehicle equipment.

As used in this subsection, ‘imminently hazardous’ means a motor vehicle or item of motor vehicle equipment which presents immediate and unreasonable risk of death, serious illness, or severe personal injury.

“(2)(A) The court in which such action is filed shall have jurisdiction to declare such motor vehicle or item of motor vehicle equipment to be imminently hazardous and (in the case of an action under paragraph (1)(B) of this subsection to grant (as ancillary to such declaration or in lieu thereof) such temporary or permanent relief as may be necessary to protect the public from such risk.

“(B) In the case of an action under paragraph (1)(A) of this subsection, the motor vehicle or item of motor vehicle equipment may be proceeded against by process of libel for the seizure and condemnation of such product in any district court of the United States within the judicial district in which such motor vehicle or item of motor vehicle equipment is found. Proceedings and cases shall conform as nearly as possible to proceedings in rem in admiralty.

“(C) An action under paragraph (1)(B) of this subsection may be brought in the district court of the United States for the District of Columbia or in any judicial district in which any of the defendants is found, resides, or transacts business. Process may be served on such defendant in any judicial district in which such defendant resides or may be found. Subpenas requiring the attendance of witnesses in such an action may run into any other district.

“(4) Notwithstanding any other provision of law, in any action under this subsection, the Secretary may direct attorneys employed by him to appear and represent him.”

Sec. 4 Section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“There is hereby authorized to be appropriated for the purpose of carrying out the provisions of this Act not to exceed \$46,773,000 for the fiscal year ending June 30, 1974.”

Amend the title so as to read:

A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to promote traffic safety by providing that defects and failures to comply with motor vehicle safety standards shall be remedied without charge to the owner, and for other purposes.

SUMMARY AND PURPOSE

The Motor Vehicle Defect Remedy Act (S. 355) would amend the National Traffic and Motor Vehicle Safety Act by empowering the Secretary of Transportation to require the remedy of a safety-related defect or failure to comply with a motor vehicle safety standard at no cost to the consumer. In addition, the bill would authorize \$46,773,000 to be appropriated for implementation of the Act for the fiscal year ending June 30, 1974.

BRIEF DESCRIPTION

The major thrust of S. 355 is to empower the Secretary of Transportation to require that the manufacturer of a motor vehicle or an item of motor vehicle equipment (including tires) which contain a safety related defect or a failure to comply with a motor vehicle safety standard to remedy such defect or failure to comply without charge to the consumer. Under current law, the Secretary may require such manufacturer to send a defect notification to the first purchaser of such motor vehicle or item of motor vehicle equipment. However, under current law, repair at no cost is discretionary with the manufacturer.

In the case of a motor vehicle, the manufacturer would be required to actually remedy the defect or failure to comply. If such motor vehicle could not be adequately remedied, the Secretary would have the discretion to require the manufacturer to choose either to replace such motor vehicle without charge with a new or equivalent vehicle or to refund the purchase price of such motor vehicle in full less a reasonable allowance for depreciation.

In the case of tires, the manufacturer would have to replace the tire, at no cost, with no deduction for tread wear (as is the current industry practice). The consumer would have a period of 60 days from the date of notification or availability of replacement tires, whichever is later, to have the remedy work performed. This time-limitation provision is designed to encourage consumers to replace defective tires immediately instead of waiting until they are worn out before obtaining new tires.

Additionally, S. 355 precisely defines the administrative hearing procedure available to the manufacturer of a motor vehicle or item of motor vehicle equipment which has been declared by the Secretary to contain a defect or failure to comply. The procedure is designed to insure an expeditious consideration of the views and evidence of the manufacturer and other interested parties. Due to the nature of the potential risk to the public health and safety, it is imperative that this administrative proceeding not be delayed. Accordingly, the Secretary is vested with great discretion to control the proceedings.

Under the new procedure, if the Secretary determines that a defect or failure to comply exists, he immediately notifies the manufacturer of his determination and supplies a statement of his reasons and the basis for the findings. His determination, reasons and findings are published immediately in the Federal Register. Within 7 days after the manufacturer receives notification of the Secretary's determination, he may file a petition to initiate a proceeding to establish to the satisfaction of the Secretary that the motor vehicle or item of motor vehicle equipment does comply with a standard or does not contain a safety related defect or that the defect or failure to comply is *de minimis* in its impact on motor vehicle safety. The Secretary has 21 days within which to commence the proceeding.

A record of the proceeding shall be maintained. The proceeding shall be structured to proceed as expeditiously as possible while permitting the manufacturer and all interested parties to present their views. The Secretary shall afford participants a limited right to cross-examine experts on matters directly related to the issues of defect or failure to comply. However, the Secretary may establish such limitations on cross-examination as he deems necessary to assure fair and expeditious consideration of the contested issues. The Secretary must render his decision on the petition within 14 days of the conclusion of the proceeding. An opportunity for judicial review to the U.S. Court of Appeals for the District of Columbia is available to any person aggrieved by the decision at the proceeding.

In those cases where the risk to the public is obvious, S. 355 provides for a procedure whereby the Secretary can avoid the possibly time consuming procedures and act immediately to remove an obvious hazard by applying to a District Court for such temporary or permanent relief as may be necessary to protect the public.

Finally, the Committee has proposed to authorize appropriations of not to exceed \$46,773,000 for the fiscal year ending June 30, 1974. The Administration has requested an open ended authorization in support of a request for appropriations of \$35,630,000.

BACKGROUND AND NEED

Repair at no cost

Since the enactment of the National Traffic and Motor Vehicle Safety Act of 1966, over 36,000,000 motor vehicles have been recalled due to the presence of a safety related defect (including failures to comply with motor vehicle safety standards). The Motor Vehicle Safety Act currently empowers the Secretary of Transportation to declare that a safety related defect exists and to require that a notification be sent to the owners of the defective vehicles. But the Act does not require the manufacturer to remedy that defect at no cost to the consumer.

As the auto safety program in the Federal government matures, more and more vehicles are being recalled. Thus, in 1972, 12,000,000 cars were recalled—more than in any other single year. In fact, more vehicles were recalled last year than were built. Now that the nation has finally developed the capability of discovering defects in motor vehicles, we must do all in our power to insure that those defects are remedied; all of our efforts to locate safety related defects and warn consumers of their existence are wasted if the vehicle is not ultimately

repaired. It must be as attractive and convenient as possible for a consumer to invest the energy and the effort to get his or her vehicle fixed. At stake is not only the welfare of the owner of the vehicle himself, but also other persons who might be injured as a result of the defect.

Our experience over the past six years has clearly demonstrated that owners of defective vehicles have a greater tendency to have their vehicles remedied if the manufacturer absorbs the repair cost. Statistics compiled by the National Highway Traffic Safety Administration indicate that in recall situations where the manufacturer has absorbed defect repair costs, about 75% of those owners who received notification had the vehicle inspected, and repaired where necessary. On the other hand, in the Corvair heater recall, where the manufacturer refused to absorb the cost of remedy, only 7.6% responded to the warning.

Repair at no cost legislation is not new to the Senate. In 1969, the Senate adopted a proposal similar to S. 355. In the Conference Committee with the House, however, that provision was deleted in exchange for industry assurance that all safety related defects would be remedied at the manufacturer's expense whether or not such an obligation was mandated by legislation.

Generally, the automobile industry has honored that commitment. However, in the past 18 months, there have been two notable instances where that promise has been breached. In November, 1971, the National Highway Traffic Safety Administration declared that the heater on all 1960-68 Chevrolet Corvairs contained a safety related defect; the heater leaked poisonous fumes into the passenger compartment. The 680,000 owners of those cars were each asked to bear the cost of the repair—\$150-\$200 per vehicle—with no assurance the repair would last.

One year later, in November, 1972, the second breach occurred, this one involving a foreign manufacturer—Volkswagen of America. Approximately 3.7 million vehicles were involved. The windshield wiper system on all 1949-1969 Volkswagens was found to be defective in that a set screw loosened without warning, causing failure of the wiper system. Although Volkswagen sent notification letters to all known owners, the company only had the names of 220,000 of the 3.7 million owners. The manufacturer refused to absorb the remedy cost for even these vehicles.

This legislation is designed to insure that the consumer never again will be forced to pay for the repair of safety related defects. It codifies the right of the American consumer to have an automobile containing a safety related defect to be made safe by the manufacturer free of charge. The Committee believes that the requirement of remedy at no cost will also serve as an added inducement to consumers to put forth the time and effort to have an unsafe motor vehicle or item of motor vehicle equipment made safe.

The authorization

In recent years the Committee on Commerce has authorized on an annual basis a sum certain to be appropriated for the implementation of the National Traffic and Motor Vehicle Safety Act. As a result of continuous and thorough oversight activities by the Committee, sums not to exceed \$46,773,000 has been proposed for authorization for the

fiscal year ending June 30, 1974. This sum represents \$11,710,000 more than the amount which the Office of Management and Budget requested for the National Highway and Traffic Safety Administration appropriation in fiscal 1974.

Even if all of these funds which the Committee proposes to authorize were appropriated, it would still represent a sum more than \$10 million less than that which the National Highway Traffic Safety Administration requested from the Department of Transportation. The Committee has been informed that the NHTSA requested \$58,198,000 from the Department for implementation of the National Traffic and Motor Vehicle Safety Act. The Department requested only \$50,612,000 from the Office of Management and Budget for the implementation of this Act. The OMB allowance amounted to only \$35,063,000. Hence, the Committee's proposed authorization is a compromise between the amount which the Office of Management and Budget has concluded is necessary for implementation of the Act and that which the agency itself had requested. An analysis of the Committee's rationale for increasing the authorization above the amount requested for appropriation follows:

For the research and analysis functions under the Act, the NHTSA requested \$40,730,000 for FY 1974 from the Department. The OMB allowance for these functions was \$21,446,000. The Committee proposes to increase this amount by \$9,750,000.

It is intended that \$2,000,000 of this proposed increase be utilized for additional activities in the area of accident investigation and data analysis. Specifically, it is to enable the agency to commence several studies to ascertain the effect of motor vehicle safety standards on highway safety and to plot the future course of federal regulation in this area. The questions which need to be answered are as follows:

- (1) Has each standard that has been promulgated by the NHTSA been cost beneficial?
- (2) Does each standard accomplish the goal for which it was developed?
- (3) Is there a need to amend any standard so that it more effectively achieves the goal for which it is intended?
- (4) What standards must be promulgated in the next decade which will be both cost beneficial and will fulfill the mandate of the Motor Vehicle Safety Act?

The Committee believes that the answers to these questions must be ascertained for several reasons. First, the consumer should not be asked to pay for safety items which are not performing their mission. Second, if the consumer can be protected by the modification or addition of a motor vehicle safety standard at a cost which is commensurate with the degree of protection, then he is entitled to be so protected. Third, the manufacturers are entitled to notice of necessary design modifications which will be required in order to comply with future motor vehicle safety standards.

The Committee proposes to authorize five additional personnel and support for these new accident investigation and data analysis functions.

In the area of crash survivability, the Committee proposes to authorize an additional \$4,490,000. Three million dollars of this amount is proposed to be utilized for additional passive restraint field testing. Currently, motor vehicles equipped with airbags have accumulated over 12 million miles on the highways with great success.

The bags have proven to be both reliable and life saving. However, the current fleet of only 2,000 vehicles should be increased to insure the efficacy of the airbag. Accordingly, the additional \$3 million is intended to be used by the NHTSA to equip General Services Administration vehicles with airbag systems.

In addition, the Committee proposes to authorize an additional \$1 million for vehicle structures research. Many members of Congress are disturbed with the lethargy with which the Administration has pursued the area of school bus safety. It has only been within the last few months that the agency has proposed its first comprehensive standards relating to school buses. However, these pertain only to interior structures and much still needs to be done in this area. Standards have yet to be proposed relating to structural integrity, exhaust systems, fuel tank location, braking systems, and the like. Accordingly, the additional \$1 million proposed for authorization for vehicle structure research is intended to be utilized in the school bus area.

Finally, the Committee proposes to authorize \$100,000 for a study to determine the desirability of requiring lap belt systems in motor vehicles equipped with air bags. Motor Vehicle Safety Standard 215 which may require a passive restraint system, such as an airbag, in all motor vehicles manufactured after the Fall, 1975 does not call for the installation of such lap belts. The Committee believes that in the interest of public health and safety, a study to determine the wisdom of such a deletion is necessary.

Finally, the Committee proposes to authorize an additional 15 personnel and support for the functions outlined in the area of crash survivability.

In its request for appropriations, the NHTSA requested no funds for motor vehicle-in-use activities. This deletion was based on the rationale that all motor vehicle-in-use activities would be merged with the functions under the Motor Vehicle Information and Cost Savings Act. When the Committee authorized funds for this act last year, it did not intend the NHTSA to abandon all of its other motor vehicle-in-use functions. The agency has only recently proposed motor vehicle-in-use standards which were mandated by section 108(b)(1) of the Motor Vehicle Safety Act and which are now five years overdue. Accordingly, the Committee proposes to authorize \$2 million for vehicle degradation studies and \$1 million for additional work to establish the motor vehicle-in-use standards. Finally, the Committee proposes to provide five additional personnel for the motor vehicle-in-use function.

The NHTSA requested \$11,576,000 for the Motor Vehicle Program for FY 1974. The Office of Management and Budget allowance for this function was only \$8,138,000. The Committee proposes to increase this amount by \$1,830,000. Specifically, the Committee proposes to authorize \$600,000 for cost and lead time analysis activities. President Nixon's ad hoc committee on the "Cumulative Regulatory Effects on the Cost of Automotive Transportation" (RECAT) criticized the NHTSA for failure to undertake sufficient cost and lead time analysis. The RECAT committee said that:

"In particular, careful consideration of and, where possible, demonstration of technical feasibility and early adequate, cost benefit analysis performed *prior* to the publication of the notice of proposed rulemaking, rather than later, would serve to demon-

strate to automobile manufacturers, the public and the regulators themselves that the proposed regulation was in fact likely to be both cost beneficial and practical."

Cost and lead time analysis is vitally important to the manufacturer so that he may plan in advance, changes in design and construction of motor vehicles in order to comply with motor vehicle safety standards. Although there is growing indication that the NHTSA needs greater access to manufacturer cost information, comprehensive cost and lead time analysis must be undertaken regularly to prevent delay in implementation of standards.

In last year's authorization, the Committee proposed that a contingency fund be available to the agency for defect investigation and standard enforcement work. The Committee has proposed again this year a contingency fund of \$1 million. This fund would be utilized when additional work is needed to expedite a defects' investigation which may present a substantial threat to the motoring public or when demands upon the Office of Defect Investigations are too strenuous to effectuate all of the pending investigations. Inherent in the establishment of this contingency fund is the emphasis that the committee places on the need for the NHTSA to investigate and take appropriate action in any potential defect situation.

The Committee also proposes to authorize \$100,000 for a study to determine the effectiveness of the defect investigation and standard enforcement activities of the NHTSA. In the last two years, there has been substantial criticism that the Office of Defect Investigations is not effectively utilizing its resources and information in conducting defect investigations. The proposed funds would be used to consult outside sources on the most effective approach to defect investigation and standard enforcement in the motor vehicle safety area. For the purposes of the increased activities in the area of defect investigation and standard enforcement, the Committee additionally proposes to authorize five new positions in the Motor Vehicle Program.

Finally, the Committee proposes to authorize five additional positions for the Office of the General Counsel. Under the repair-at-no-cost provisions of S. 355, burdens on this office may increase. The Office of the General Counsel is now severely understaffed and the addition of five attorneys would expedite legal matters within the agency.

SECTION-BY-SECTION ANALYSIS

Civil penalties (section 2)

Section 108 of the National Traffic and Motor Vehicle Safety Act now provides that "No person shall . . . (4) fail to furnish notification of any defect as required by Section 113 of this Act." S. 355 would amend Section 103 to read as follows: "No person shall . . . (4) fail to furnish notification, fail to remedy any defect or failure to comply, fail to maintain records, or fail to meet any other obligation imposed upon any manufacturer, distributor, or dealer pursuant to Section 113 of this Act." The thrust of this amendment is to clarify the Committee's intent that a failure to comply with any obligation which is imposed under the new Section 113 contained in S. 355 constitutes a violation of the Act for which the sanctions of Section 109 of the Act are applicable.

Discovery, notification, and remedy of motor vehicle defects (section 3)

In order to stylistically and technically conform with the new provisions relating to repair at no cost contained in S. 355, the Committee proposes to redraft the existing provisions of Section 113 of the Act. A subsection by subsection analysis of the new Section 113 follows:

Requirement of notice (subsection (a))

The proposed Section 113(a) relating to the requirement of notification is based primarily on the existing subsection (a) of section 113 of the National Traffic and Motor Vehicle Safety Act. It requires every manufacturer of motor vehicles or tires to furnish notification to the purchaser of such motor vehicle or item of motor vehicle equipment if the manufacturer discovers that the motor vehicle or item of equipment does not comply with an applicable motor vehicle safety standard or contains a safety related defect. Additionally, notification is required if the Secretary determines that such motor vehicle or item of motor vehicle equipment does not comply with a motor vehicle safety standard or contains a safety related defect. A provision of this bill remedies an oversight in the original Act whereby it was not clear whether notification was required under the Act where the manufacturer himself discovered a failure to comply with an applicable motor vehicle safety standard. The bill would require notification in this situation.

The proposed redraft of subsection (a) also incorporates provisions in the existing subsections (g) and (f) of Section 113 of the Act which provide that the retreader of tires shall be deemed the manufacturer of tires which have been retreaded and the brand name owner of tires marketed under a brand name not owned by the manufacturer of the tire shall be deemed the manufacturer of tires marketed under such brand name. Hence, a retreader or brand name owner of tires is responsible for notification and repair at no cost under the provisions of Section 113. Subsection (a) also contains the first half of the existing § 113(e). The remaining provisions of the existing subsection (a) of Section 113 of the Act are incorporated in the proposed subsection (g) of the new Section 113 contained in S. 355.

Contents and time form notice (subsection (b))

Subsection (b) provides that notification to be sent by the manufacturer to owners of defective motors vehicles and items of motor vehicle equipment shall contain, in addition to such other matters as the Secretary may prescribe by regulation: (a) a clear description of defect in any motor vehicle or item of motor equipment of the failure to comply with any applicable motor vehicle safety standard; (b) an evaluation of the risk to traffic safety reasonably related to such defect or failure to comply; (c) a statement of the measures to be taken to remedy such defect or failure to comply; (d) a statement that the named manufacturer shall cause such defect or failure to comply to be remedied without charge; (e) the date when such defect or failure to comply will initially be remedied without charge and, in the case of tires, the final date when such defect or failure to comply

will be remedied without charge; and (f) a description of the procedure to be followed in informing the Secretary whenever a manufacturer, distributor, or dealer fails or is unable to remedy without charge such defect or failure to comply.

Under the National Traffic and Motor Vehicle Safety Act, the Secretary has clear authority to require certain specific information in the defect notification letter. Such authority is not altered by the provisions of subsection (b). Rather, the subsection is broadened to conform to the addition of the remedy requirements in the bill and to clarify the Congress' general authorization to the Secretary of rulemaking power in this area.

The notification required in subsection (a) must be furnished within a reasonable time of the discovery of the failure to comply or defect by the manufacturer or of the Secretary's determination of failure to comply or defect. As in the existing provisions in Section 113(b) of the National Traffic and Motor Vehicle Safety Act, the notification shall be accomplished by certified mail.

Under Section 113(b) of the existing Act, the first purchaser (not including any dealer of such manufacturer) of the motor vehicle or item of motor vehicle equipment containing a defect or failure to comply and any subsequent purchaser of such vehicle or equipment to whom has been transferred any warranty thereon receives the notification required pursuant to the Act. These provisions are incorporated in the Committee's bill. In addition, S. 355 provides that any person who is a registered owner of such vehicle or equipment and whose name and address is reasonably ascertainable through state records or other sources available to such manufacturer must also receive the notification required by the Act.

The purpose of this section is to enable consumers who purchase a used motor vehicle to receive notification and remedy when that vehicle contains a safety related defect or a failure to comply. The danger to the public health and safety of a defective motor vehicle is not mitigated by the fact that such vehicle has changed hands. Many states make their motor vehicle registration records available to either the manufacturer or the Secretary and such lists should be utilized in locating owners of vehicles. In addition, registration lists are available from private organizations such as R. L. Polk who submitted a statement to the Committee during hearings on S. 355 acknowledging their capabilities in this area. It is through a reasonable search of the state records and other sources that the manufacturer will be able to locate most owners whose vehicles are subject to recall. Such a procedure is similar to that currently practiced by many manufacturers today on a voluntary basis. Obviously, there is no need for an owner who was the first purchaser of a motor vehicle which he has subsequently sold to receive notification of defect or failure to comply.

Additionally, the manufacturer must send by certified mail or other expeditious means to the dealer or dealers of such manufacturer to whom such motor vehicle or equipment was delivered, notification required by this section. This provision is similar to that contained in the existing section 113(b) of the Act.

Information and disclosure (subsection (c))

Subsection (c) of Section 113 of the bill provides that every manufacturer of motor vehicles or tires shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the dealers of such manufacturer or to the purchasers of motor vehicles or motor vehicle equipment produced by such manufacturer regarding any defect in such vehicle or equipment which is sold or serviced. Such a provision is similar to that contained in the existing section 113(d) of the Act. It is clear that the term "other communications" includes all information whether it be communicated to the dealer by the manufacturer himself or through any employee of the manufacturer, including zone representatives, and whether such communication is written or oral.

Subsection (c) also provides that the Secretary shall disclose so much of any information referred to under this subsection, subsection (a) of this section, or section 112(a) to the public as he determines will assist in carrying out the purposes of this Act, but he shall not disclose to the public any information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, unless he determines that it is necessary to carry out the purposes of the Act. This trade secret exception is identical to that which is currently contained in section 113(d) of the Act.

This subsection requires mandating release of all information that is currently available to the public in the present law or under the Freedom of Information Act, and all information should be made readily available to the public unless it comes within the definition of "trade secret" or unless the Secretary determines that it would not assist in carrying out the purposes of the Act. Similarly, a manufacturer's claim that information is a "trade secret" should not be accepted without close scrutiny and justification by the Agency. The Committee is cognizant of the importance of a free flow of information so that members of the public can assist the Agency in carrying out the purposes of the Act. Any unjustified refusal by the agency to assist the public in obtaining information about the safety of vehicles and equipment frustrates this important objective and does not assist in carrying out the purposes of the Act.

Records of first purchaser (subsection (d))

Subsection (d) of the proposed section 113 is identical to the existing section 113(f) of the National Traffic and Motor Vehicle Safety Act. It provides that the manufacturer of motor vehicles or tires shall maintain records of the names and addresses of the first purchaser (other than a dealer or distributor) of motor vehicles or tires produced by such manufacturer. Additionally, the Secretary may establish, by order, procedures to be followed by manufacturers in establishing and maintaining such records, including procedures to be followed by distributors and dealers to assist manufacturers to secure the information required by this subsection. Although the availability or nonavailability of such assistance shall not affect the obligation of manufacturers under this subsection, if the Secretary determines that a distributor or dealer shall assist the manufacturer in securing the information,

an obligation is imposed on such distributor or dealer for the purposes of this section.

Remedy of defect or failure to comply (subsection (e))

Subsection (e) of the proposed section 113 requires the manufacturer to repair defective or non-complying vehicles and equipment at no cost. It provides that if any motor vehicle, motor vehicle equipment or tire is determined by the manufacturer or by the Secretary (after a hearing where applicable) to contain a safety related defect or failure to comply with an applicable motor vehicle safety standard, then, after the notification required by this section, the manufacturer of such motor vehicle or tire presented for remedy pursuant to such notification shall cause the defect or failure to comply in such motor vehicle (including any item of original motor vehicle equipment), such item of motor vehicle equipment or such tire to be remedied without charge. In the case of a tire presented for remedy pursuant to such notification, the manufacturer shall replace such tire without charge for a period of 60 days after either receipt by the owner of notification or availability of replacement tires, whichever is later. Hence, a consumer will have up to 60 days to exchange a tire which is found to be defective or is not in compliance with standards for a new one with no deduction for tread wear.

In the case of a motor vehicle presented for remedy pursuant to such notification, if the defect or failure to comply cannot be adequately remedied, the Secretary shall require the manufacturer, at the manufacturer's option, either to replace such motor vehicle without charge with a new or equivalent vehicle, or refund the purchase price of such motor vehicle in full plus a reasonable allowance for depreciation. The amount to be refunded is not necessarily to be based upon the so-called "book value" of the vehicle. Rather, a more accurate appraisal of that amount is that which is needed to replace the recalled vehicle with an equivalent vehicle.

S. 355 additionally provides that the dealer or retailer who performs such remedy work without charge shall receive fair and equitable reimbursement for such work from such manufacturer. This provision relates to a situation where the recall is initiated by either the manufacturer or the National Highway Traffic Safety Administration. With respect to tires, the repair at no cost and reimbursement provision includes the removal of the recalled tire from the vehicle, mounting the new tire, balancing the wheel, and replacing the recalled tire with another supplied by the manufacturer. The retailer should be compensated for these costs at a fair and equitable rate. A measure of "fair and equitable" may be that which is provided as reimbursement to retailers under normal warranty adjustments. This legislation is not intended to interfere with the normal business relationships between the manufacturers and their dealer retailers; however, it is designed to insure that the retailer is duly compensated in a reasonable and timely manner for the work which he performs.

The requirements of this subsection shall not apply if a determination is made under subsection (g) of this section that the defect or failure to comply is *de minimis*, or if such motor vehicle or item of motor vehicle equipment was purchased by the first

purchaser (not including any dealer of a manufacturer) more than 8 calendar years before the manufacturer receives notification from the Secretary of the defect or failure to comply. This 8 year statute of limitations is not intended to affect the liability of the manufacturer in civil suit. It merely provides a statutory limit on the responsibility to remedy a safety related defect or failure to comply at no cost to the consumer. Further, although the manufacturer is not required by law to remedy at no cost, he must still comply with the notification requirements of this section.

This statute of limitations must not be used by manufacturers to stall a defect investigation. If the Secretary determines that a manufacturer is utilizing dilatory tactics for the purpose of delaying the Secretary's initial determination of defect or failure to comply (pursuant to paragraph 1 of subsection (g) of section 113) for the purpose of reaching the 8 year cutoff date, then the Secretary shall take whatever steps necessary within his authority to prevent such tactics.

Approval and implementation of remedy plan (Subsection (f))

Subsection (f) of the proposed Section 113 mandates the Secretary to approve with or without modification, after consultation with the manufacturer of a motor vehicle or tires determined to contain a safety related defect or failure to comply with an applicable motor vehicle safety standard, such manufacturer's remedy plan including the date when and the method by which the notification and remedy required pursuant to this section shall be effectuated. The date shall be the earliest practicable one but shall not exceed 60 days from the date of discovery or determination of the defect or failure to comply unless the Secretary grants an extension of such period for good cause shown and publishes a notice of such extension in the Federal Register.

In approving the manufacturer's method by which the remedy is to be effectuated, the Secretary shall determine that, in the case of non-compliance, the method will bring such motor vehicle or item of equipment into compliance with the applicable standard. In the case of a tire which fails to comply or contains a safety related defect, the Secretary shall assure that the manufacturer's plan calls for replacement of such tire with one comparable to that originally purchased by the consumer. In the case of a safety related defect in a motor vehicle or item or motor vehicle equipment, the Secretary shall assure to the extent possible that the method by which repair is to be effectuated will, in fact, permanently remedy the defect. The manufacturer is bound to implement the remedy plan as approved by the Secretary.

Upon application in writing by the manufacturer, the Secretary may approve any amendment or modification of the remedy plan for good cause shown, provided notice of such modification is reasonably publicized by such manufacturer.

"Good cause" means unavoidable delay due to strikes, catastrophe, or natural disaster. The Secretary shall cause each application and the decision rendered on the application to be published in the Federal Register within five days of receipt or issuance. If a manufacturer is unable to comply with the remedy plan as approved by the Secretary for a cause other than strikes, catastrophe, or natural disaster, he is subject to the sanctions

imposed pursuant to sections 108 and 109 of the Act. Where feasible, the Secretary should publish in the Federal Register the proposed remedy plan so that the public can assist the NHTSA by commenting on the proposed remedy. Unless a trade secret is involved, in no event should the proposed remedy be kept secret.

Proceedings (subsection (g))

Under the proposed Subsection (g), the Secretary shall immediately notify a manufacturer of his determination of defect or failure to comply and shall supply a statement of his reasons and the basis for the findings. Such determination, reasons and findings shall be published immediately in the Federal Register. At the same time, the Secretary shall make available to the manufacturer and any interested party all information, except trade secrets upon which the findings are based. Once again, the committee stresses the importance of making available to interested parties as much information as possible so that they can meaningfully participate in any subsequent proceedings. Within seven days after the manufacturer receives notification pursuant to this paragraph, he may file a petition to initiate a proceeding to establish to the satisfaction of the Secretary that (a) such motor vehicle or item of motor vehicle equipment does not comply with such standard or does not contain a defect which relates to motor vehicle safety; or (b) such defect or failure to comply is *de minimis* in its impact on the number of traffic accidents and deaths and injuries to persons resulting from traffic accidents.

An example of failure to comply which is *de minimis* in its impact may be one in which the labeling provisions of a standard were not strictly adhered to by the manufacturer. For example, the label itself may be too small or not precisely in the proper position. However, if the Secretary determines that motorists, their passengers, or third parties may be endangered by a defect or failure to comply, then such defect or failure to comply is not *de minimus*.

The proceeding on such petition shall commence within 21 days of the date of the determination and such date shall be announced publicly. A record of the proceeding shall be maintained. It shall be structured to proceed as expeditiously as possible while permitting the manufacturer and all interested persons an opportunity to present their views. Participants shall be given a limited right to cross-examine experts on matters directly related to the issues of defect or failure to comply. For the purposes of this subsection, "a limited right to cross examination" means that the Secretary may set such conditions and limitations on cross examination as he deems necessary to assure fair and expeditious consideration of the contested issues. Specifically, the Secretary can define the scope, subject matter, method, and any other aspects of cross examination that he deems necessary to assure that interested parties are given a fair hearing while, at the same time, insuring swift consideration of the issues. It is vitally important that the proceeding not be delayed and accordingly, the Secretary may take whatever steps are reasonably necessary to prevent dilatory tactics by any interested person.

All testimony shall be presented by affidavit or orally under oath pursuant to regulations issued by the Secretary and the Secretary may require that persons with the same or similar interests appear together by a single representative. Under this provision, the parties whose interests are the same or similar should be entitled to choose their own representative and if there is disagreement among groups, the Secretary should not combine them. By the term "single representative" the Committee does not intend to limit representation by one individual on behalf of the parties whose interests are the same or similar. Rather, their representatives may include individuals representing various disciplines; e.g., attorneys, engineers, etc.

Within fourteen days of the conclusion of the proceeding, the Secretary shall issue a decision on the petition with a statement of his reasons. If such decision affirms the original determination of the Secretary, then he shall direct the manufacturer to furnish forthwith the notification required by subsection (a) of this section subject, of course, to any stay that may be granted by the court if the decision of the Secretary is appealed. The Secretary's decision and reasons shall be published immediately in the Federal Register.

Subsection (g)(2) of the proposed section 113, provides that any person who is aggrieved by the decision in the proceeding before the Secretary may appeal the decision upon filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit. The petition must be filed within 20 days after the Secretary's decision. In any such review, the factual findings of the Secretary shall be sustained if supported by substantial evidence on the record considered as a whole. The Secretary is directed to file the record upon which his findings are based within 20 days of the date the petition for review is filed. The court shall expedite the disposition of such petition for review. There is no appeal on the Secretary's determination that a defect or failure to comply is or is not *de minimus* in its impact.

The term "any person who is aggrieved by the decision" should be broadly interpreted and does not require specific injury to the individual himself. Rather, the individual can be a representative of consumers and be expressing their interests. The reason for this is quite clear: where a motor vehicle or item of motor vehicle equipment contains a safety related defect or failure to comply, the owner of such vehicle or equipment is not the only one who may be endangered. Passengers riding in that vehicle or other parties may be involved in an accident, the proximate cause of which was the defect or failure to comply.

Imminent hazard (subsection (h))

This subsection relating to "imminent hazards" is modeled after a similar provision contained in the Consumer Product Safety Act enacted in 1972. Under this provision, the Secretary may file an action against an imminently hazardous motor vehicle or item of motor vehicle equipment for the seizure of such vehicle or equipment, and against the manufacturer, distributor or dealer of such motor vehicle or item of motor vehicle equipment. As used in this subsection, "imminent hazard" means a motor vehicle

or item of motor vehicle equipment which presents immediate and unreasonable risk of death, serious illness, or severe personal injury. The court in which such action is filed shall have jurisdiction to declare such motor vehicle or item of motor vehicle equipment to be imminently hazardous and in an action against such manufacturer, distributor or dealer or to grant such temporary or permanent relief as may be necessary to protect the public from such risks. In an action filed against an imminently hazardous motor vehicle or item of motor vehicle equipment, such a vehicle or equipment may be proceeded against by process of libel for the seizure and condemnation of such product in any district court of the United States within the judicial district in which such motor vehicle or item of motor vehicle equipment is found. Proceedings and cases shall conform as nearly as possible to proceedings in rem in admiralty.

An action filed against a manufacturer, distributor, or dealer may be brought in the District Court of the United States for the District of Columbia or in any judicial district in which any of the defendants is found, resides, or transacts business. Process of such defendant may be served in any judicial district in which such defendant resides or may be found. Subpoenas requiring the attendance of witnesses in such action may run into any other district. Attorneys employed by the Secretary may appear and represent him in any such proceeding notwithstanding any other provision of law. The Secretary has complete control of the litigation through his own attorneys.

The purpose of this provision is to provide an expedited proceeding where the public is presented with an immediate and unreasonable risk of death, serious illness, or severe personal injury due to a safety related defect or failure to comply with an applicable Motor Vehicle Safety Standard. In a case where the manufacturer agrees to remedy such defect or failure to comply without invoking the hearing provisions of subsection (g) of this section, then the imminent hazard provision would not be necessary. However, if the manufacturer requests a hearing and the Secretary determines that an imminent hazard exist, he may immediately proceed to the district court under the provisions of this subsection. The manufacturer will still receive a due process consideration of his views and evidence in the district court and the public will still have the benefit of an expedited consideration.

Authorization of appropriation (Section 4)

S. 355 would authorize for appropriations sums not to exceed \$46,773,000 for fiscal year ending June 30, 1974 for the purposes of carrying out the provisions of the National Traffic and Motor Vehicle Safety Act. In recent years, the Committee has authorized a sum certain for implementation of the act on a year to year basis and this provision is consistent with that tradition.

ESTIMATED COSTS

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510), the cost of the legislation, in the form of authorization of appropriations for motor vehicle safety programs

is \$46,773,000. The repair at no cost provisions will result in no additional expenditures.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 108 OF THE NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT, AS AMENDED (15 U.S.C. 1397)

(a) Access to records; certificate; notification of defect.

No person shall—

(1) manufacture for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States, any motor vehicle or item of motor vehicle equipment manufactured on or after the date any applicable Federal motor vehicle safety standard takes effect under this Act unless it is in conformity with such standard except as provided in subsection (b) of this section;

(2) fail or refuse access to or copying of records, or fail to make reports or provide information, or fail or refuse to permit entry or inspection, as required under section 112 of this Act;

(3) fail to issue a certificate required by section 114 of this Act, or issue a certificate to the effect that a motor vehicle or item of motor vehicle equipment conforms to all applicable Federal motor vehicle safety standards, if such person in the exercise of due care has reason to know that such certificate is false or misleading in a material respect;

[(4) fail to furnish notification of any defect as required by section 113 of this Act.] (4) *fail to furnish notification, fail to remedy any defect or failure to comply, fail to maintain records, or fail to meet any other obligation imposed upon any manufacturer, distributor, or dealer pursuant to section 113 of this Act.*

(b) * * *

SECTION 113 OF THE NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT, AS AMENDED (15 U.S.C. 1402)

§ 113. [Discovery of defects by manufacturer.

(a) NOTICE TO PURCHASER.—Every manufacturer of motor vehicles or tires shall furnish notification of any defect in any motor vehicle or motor vehicle equipment produced by such manufacturer which he determines, in good faith, relates to motor vehicle safety, to the purchaser (where known to the manufacturer) of such motor vehicle or motor vehicle equipment, within a reasonable time after such manufacturer has discovered such defect.

(b) NOTIFICATION BY CERTIFIED MAIL.—The notification required by subsection (a) of this section shall be accomplished—

(1) by certified mail to the first purchaser (not including any dealer of such manufacturer) of the motor vehicle or motor vehicle

equipment containing such a defect, and to any subsequent purchaser to whom has been transferred any warranty on such motor vehicle or motor vehicle equipment; and

(2) by certified mail or other more expeditious means to the dealer or dealers of such manufacturer to whom such motor vehicle or equipment was delivered.

(c) **FORM AND REQUISITES OF NOTIFICATION.**—The notification required by subsection (a) of this section shall contain a clear description of such defect, an evaluation of the risk to traffic safety reasonably related to such defect, and a statement of the measures to be taken to repair such defect.

(d) **SECRETARY'S COPY OF ALL NOTICES, BULLETINS, AND COMMUNICATIONS SENT BY MANUFACTURER TO DEALERS AND PURCHASERS CONCERNING DEFECTS; DISCLOSURE BY SECRETARY.**—Every manufacturer of motor vehicles or tires shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the dealers of such manufacturer or purchasers of motor vehicles or motor vehicle equipment of such manufacturer regarding any defect in such vehicle or equipment sold or serviced by such dealer. The Secretary shall disclose so much of the information contained in such notice or other information obtained under section 112(a) of this Act to the public as he deems will assist in carrying out the purposes of this chapter, but he shall not disclose any information which contains or relates to a trade secret or other matter referred to in section 1905 of Title 18 unless he determines that it is necessary to carry out the purposes of this chapter.

(e) **NOTICE BY SECRETARY TO MANUFACTURER CONCERNING DEFECTS RELATING TO MOTOR VEHICLE SAFETY OR FAILURE TO COMPLY WITH SAFETY STANDARDS; PRESENTATION OF OPPOSING VIEWS; NOTICE TO PURCHASERS OF DEFECTS.**—If through testing, inspection, investigation, or research carried out pursuant to this subchapter, or examination of reports pursuant to subsection (d) of this section, or otherwise, the Secretary determines that any motor vehicle or item of motor vehicle equipment—

(1) does not comply with an applicable Federal motor vehicle safety standard prescribed pursuant to section 103 of this Act; or

(2) contains a defect which relates to motor vehicle safety;

then he shall immediately notify the manufacturer of such motor vehicle or item of motor vehicle equipment of such defect or failure to comply. The notice shall contain the findings of the Secretary and shall include all information upon which the findings are based. The Secretary shall afford such manufacturer an opportunity to present his views and evidence in support thereof, to establish that there is no failure of compliance or that the alleged defect does not affect motor vehicle safety. If after such presentation by the manufacturer the Secretary determines that such vehicle or item of equipment does not comply with applicable Federal motor vehicle safety standards, or contains a defect which relates to motor vehicle safety, the Secretary shall direct the manufacturer to furnish the notification specified in subsection (c) of this section to the purchaser of such motor vehicle or item of motor vehicle equipment as provided in subsection (a) and (b) of this section.

(f) **RECORDS OF NAMES AND ADDRESSES OF FIRST PURCHASER.**—Every manufacturer of motor vehicles or tires shall maintain records

of the names and addresses of the first purchaser (other than a dealer or distributor) of motor vehicles or tires produced by that manufacturer. The Secretary may establish, by order, procedures to be followed by manufacturers in establishing and maintaining such records, including procedures to be followed by distributors and dealers to assist manufacturers to secure the information required by this subsection which will not affect the obligation of manufacturers under this subsection. Such procedures shall be reasonable for the particular type of motor vehicle or type of tires for which they are prescribed. With respect to a tire marketed under a brand name not owned by the manufacturer of the tire, the brand name owner shall maintain the records otherwise required of the manufacturer by this subsection, and shall give any notification required by this section of the manufacturer whenever he is furnished such a notification by the manufacturer, and for the purposes of section 112 (c) of this act, such brand name owner shall be deemed a manufacturer.

(g) **RETRADED TIRES.**—For the purpose of this section the term manufacturer of tires includes, in the case of retreaded tires, the retreader.]

“DISCOVERY, NOTIFICATION, AND REMEDY OF MOTOR VEHICLE DEFECTS

“SEC. 113. (a) REQUIREMENT OF NOTICE.—For purposes of this section, the retreader of tires shall be deemed the manufacturer of tires which have been retreaded, and the brand name owner of tires marketed under a brand name not owned by the manufacturer of the tire shall be deemed the manufacturer of tires marketed under such brand name. Every manufacturer of motor vehicles or tires shall furnish notification to the purchaser of such motor vehicle or item of motor vehicle equipment, pursuant to subsection (b) of this section, if—

“(1) such manufacturer discovers that any motor vehicle or item of motor vehicle equipment produced by such manufacturer—

“(A) contains a defect and determines in good faith that such defect relates to motor vehicle safety; or

“(B) does not comply with an applicable Federal motor vehicle safety standard prescribed pursuant to section 103 of this Act; or

“(2) the Secretary determines, through testing, inspection, investigation, or research carried out pursuant to this Act, through examination of communications pursuant to subsection (c) of this section, or through other means, that any motor vehicle or item of motor vehicle equipment produced by such manufacturer—

“(A) contains a defect which relates to motor vehicle safety; or

“(B) does not comply with an applicable Federal motor vehicle safety standard prescribed pursuant to section 103 of this Act.

“(b) CONTENTS, TIME, AND FORM OF NOTICE.—(1) The notification required by subsection (a) of this section shall contain, in addition to such other matters as the Secretary may prescribe by regulation—

“(A) a clear description of the defect in any motor vehicle or motor vehicle equipment or of the failure to comply with any applicable motor vehicle safety standard;

“(B) an evaluation of the risk to traffic safety reasonably related to such defect or failure to comply;

“(C) a statement of the measures to be taken to remedy such defect or failure to comply;

“(D) a statement that the named manufacturer shall cause such defector failure to comply to be remedied without charge pursuant to subsection (e) of this section;

“(E) the date when such defect or failure to comply will initially be remedied without charge and, in the case of tires, the final date when such defect or failure to comply will be remedied without charge pursuant to subsection (e) of this section; and

“(F) a description of the procedure to be followed in informing the Secretary whenever a manufacturer, distributor, or dealer fails or is unable to remedy without charge such defect or failure to comply.

“(2) The notification required by subsection (a) of this section shall be furnished within a reasonable time after—

“(A) the discovery of the defect or failure to comply by the manufacturer, pursuant to subsection (a)(1) of this section;

“(B) the Secretary’s determination of the defect or failure to comply pursuant to subsection (a)(2) of this section or subsection (g) of this section, if applicable.

“(3) The notification required by subsection (a) of this section shall be accomplished—

“(A) by certified mail to—

“(i) the first purchaser (not including any dealer of such manufacturer of the motor vehicle or motor vehicle equipment containing such defect or failure to comply),

“(ii) any subsequent purchaser of such vehicle or equipment to whom has been transferred any warranty thereon,

“(iii) any other person who is a registered owner of such vehicle or equipment and whose name and address is reasonably ascertainable through State records or other sources available to such manufacturer; and

“(B) by certified mail or other more expeditious means to the dealer or dealers of such manufacturer to whom such motor vehicle or motor vehicle equipment was delivered.

“(c) **INFORMATION AND DISCLOSURE.**—Every manufacturer of motor vehicles or tires shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the dealers of such manufacturer or to the purchasers of motor vehicles or motor vehicle equipment produced by such manufacturer regarding any defect in such vehicle or equipment which is sold or serviced. The Secretary shall disclose so much of any information referred to under this subsection, subsection (a) of this section, or section 112(a) of this Act to the public as he determines will assist in carrying out the purposes of this Act, but he shall not disclose to the public any information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, unless he determines that it is necessary to carry out the purposes of this Act.

“(d) **RECORDS OF FIRST PURCHASER.**—Every manufacturer of motor vehicles or tires shall maintain records of the names and addresses of the first purchaser (other than a dealer or distributor) of motor vehicles or tires produced by such manufacturer. The Secretary may establish, by order, procedures to be followed by manufacturers in establishing and maintaining such records, including procedures to be followed by distributors and dealers to assist manufacturers to secure the information required by this subsection except that the availability or not of such assistance shall not affect the obligation of manufacturers under this

subsection. Such procedures shall be reasonable for the particular type of motor vehicle or tires for which they are prescribed.

“(e) **REMEDY OF DEFECT OR FAILURE TO COMPLY.**—If—

“(1) any motor vehicle (including any item of original motor vehicle equipment) or tire is determined by its manufacturer, pursuant to subsection (a)(1) of this section, to contain a defect or failure to comply which relates to motor vehicle safety; or

“(2) the Secretary determines, pursuant to subsection (a)(2) of this section, or under subsection (g) of this section, if applicable, that any motor vehicle or item of motor vehicle equipment contains a defect which relates to motor vehicle safety or does not comply with any applicable motor vehicle safety standard prescribed under this Act,

then, after the notification required by subsection (a) of this section is furnished as provided in subsection (b) of this section, the manufacturer of such motor vehicle or tire presented for remedy pursuant to such notification shall cause such defect or failure to comply in such motor vehicle (including any item of original motor vehicle equipment), such item of motor vehicle equipment, or such tire to be remedied without charge. In the case of a tire presented for remedy pursuant to such notification, the manufacturer of each such tire shall replace such tire without charge for a period up to sixty days after receipt of such notification or sixty days after replacement tires are available, whichever is later. In the case of a motor vehicle presented for remedy pursuant to such notification, if the defect or failure to comply cannot be adequately remedied, the Secretary shall require the manufacturer, at the manufacturer’s option, either to—

“(A) replace such motor vehicle without charge with a new or equivalent vehicle, or

“(B) refund the purchase price of such motor vehicle in full less a reasonable allowance for depreciation.

The dealer or retailer who performs such remedy work without charge shall receive fair and equitable reimbursement for such work from such manufacturer. The requirement of this subsection that such remedy work be performed without charge shall not apply if a determination is made under subsection (g) of this section that the defect or failure to comply is de minimis, or if such motor vehicle or item of motor vehicle equipment was purchased by the first purchaser (not including any dealer of a manufacturer) more than eight calendar years before the manufacturer receives notification from the Secretary, pursuant to paragraph (1) of subsection (g) of this section, of defect or failure to comply.

“(f) **APPROVAL AND IMPLEMENTATION OF REMEDY PLAN.**—(1) The Secretary shall approve with or without modification after consultation with the manufacturer of such motor vehicle or tires, such manufacturer’s remedy plan including the date when and the method by which the notification and remedy required pursuant to this section shall be effectuated. Such date shall be the earliest practicable one but shall not exceed sixty days from the date of discovery or determination of the defect or failure to comply pursuant to subsection (a) of this section or under subsection (g) of this section, if applicable, unless the Secretary grants an extension of such period for good cause shown and publishes a notice of such extension in the Federal Register. Such manufacturer is bound to implement such remedy plan as approved by the Secretary.

“(2) Upon application in writing by such manufacturer, the Secretary may approve any amendment or modification of such plan for good cause

shown provided notice of such modification is reasonably publicized by such manufacturer. The Secretary shall cause each such application and the decision rendered on such application to be published in the Federal Register within five days of receipt or issuance. As used in the paragraph, 'good cause' means unavoidable delay due to strikes, catastrophe, or natural disaster.

"(g) PROCEEDINGS.—(1) The Secretary shall immediately notify such manufacturer of his determination under subsection (a)(2) of this section of the defect or failure to comply and shall supply a statement of his reasons and the basis for the findings. Such determination, reasons, and findings shall be published immediately in the Federal Register. At the same time, the Secretary shall make available to the manufacturer and any interested person all information, subject to the provisions of subsection (c) of this section, upon which the findings are based. Within seven days after the manufacturer receives notification pursuant to this paragraph such manufacturer may file a petition to initiate a proceeding to establish to the satisfaction of the Secretary that—

"(A) such motor vehicle or item of motor vehicle equipment does comply with such standard or does not contain a defect which relates to motor vehicle safety; or

"(B) such defect or failure to comply is *de minimis* in its impact on the number of traffic accidents and deaths and injuries to persons resulting from traffic accidents.

A proceeding on such petition shall commence within twenty-one days of the date of the determination and such date shall be announced publicly. A record of the proceeding shall be maintained. The proceeding shall be structured to proceed as expeditiously as possible while permitting the manufacturer and all interested persons an opportunity to present their views. Participants shall be given a limited right to cross-examine experts on matters directly related to the issues of defect or failure to comply. For purposes of this subsection, 'a limited right to cross-examine' means that the Secretary may set such conditions and limitations on cross-examination as he deems necessary to assure fair and expeditious consideration of the contested issues. All testimony shall be presented by affidavit or orally under oath, pursuant to regulations issued by the Secretary, and the Secretary may require that persons with the same or similar interests appear together by a single representative. Within fourteen days of the conclusion of the proceeding, the Secretary shall issue his decision on the petition with a statement of his reasons. If such decision affirms the original determination of the Secretary, under subsection (a)(2) of this section, the Secretary shall direct such manufacturer to furnish forthwith the notification required by such subsection. The Secretary's decision and reasons shall be published immediately in the Federal Register.

"(2) Except as otherwise provided in this paragraph, any person who is aggrieved by the decision in a proceeding under this subsection may appeal a decision of the Secretary upon the filing of a decision of the Secretary upon the filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit. Such petition shall be filed within twenty days after the Secretary's decision. In any such review the

factual findings of the Secretary shall be sustained if supported by substantial evidence on the record considered as a whole. The Secretary shall file the record on which his findings are based within twenty days of the date the petition for review is filed. The court shall expedite the disposition of such petition for review. The Secretary's determination that a defect or failure to comply is or is not *de minimis* in its impact is not reviewable under this paragraph.

"(h) IMMINENT HAZARD.—(1) The Secretary may file an action against—

"(A) an imminently hazardous motor vehicle or item of motor vehicle equipment for seizure of such vehicle or equipment under paragraph (2)(B) of this subsection, and

"(B) a manufacturer, distributor, or dealer of such motor vehicle or item of motor vehicle equipment;

As used in this subsection, 'imminently hazardous' means a motor vehicle or item of motor vehicle equipment which presents immediate and unreasonable risk of death, serious illness, or severe personal injury.

"(2) (A) The court in which such action is filed shall have jurisdiction to declare such motor vehicle or item of motor vehicle equipment to be imminently hazardous and (in the case of an action under paragraph (1)(B)) of this subsection to grant (as ancillary to such declaration or in lieu thereof) such temporary or permanent relief as may be necessary to protect the public from such risk.

"(R) In the case of an action under paragraph (1)(A) of this subsection, the motor vehicle or item of motor vehicle equipment may be proceeded against by process of libel for the seizure and condemnation of such product in any district court of the United States within the judicial district in which such motor vehicle or item of motor vehicle equipment is found. Proceedings and cases shall conform as nearly as possible to proceedings in rem in admiralty.

"(C) An action under paragraph (1)(B) of this subsection may be brought in the district court of the United States for the District of Columbia or in any judicial district in which any of the defendants is found, resides, or transacts business. Process may be served on such defendant in any judicial district in which such defendant resides or may be found. Subpenas requiring the attendance of witnesses in such action may run into any other district.

"(4) Notwithstanding any other provision of law, in any action under this subsection, the Secretary may direct attorneys employed by him to appear and represent him."

SECTION 121 OF THE NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT, AS AMENDED (15 U.S.C. 1409)

SEC. 121. [There is hereby authorized to be appropriated for the purpose of carrying out the provisions of this Act the sum of \$52,714,000 for the fiscal year ending June 30, 1973.] There is hereby authorized to be appropriated for the purpose of carrying out the provisions of this Act not to exceed \$46,773,000 for the fiscal year ending June 30, 1974.

AGENCY COMMENTS

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., May 1, 1973.

B-88925.

B-135374.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate.*

DEAR MR. CHAIRMAN: Your letter of February 21, 1973, requests our comments on S. 355, which is a bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to provide for remedies of defects without charge.

The proposed section 113(g)(C) reads, in part, as follows (page 4, lines 4 thru 15):

"If, following a determination under paragraph (1) of subsection (g) of this section, a manufacturer can establish to the satisfaction of the Secretary at a hearing structured to proceed as expeditiously as practicable that a failure to comply with an applicable motor vehicle safety standard is of such inconsequential nature that the purposes of this title and the public interest would not be served by requiring the applicable manufacturer to remedy such defect or failure to comply without charge, the Secretary may, upon publication of his reasons for such findings, exempt such manufacturer from the requirements of this subsection with respect to such failure."

We suggest that the foregoing provision be clarified to more specifically define (1) the type of hearing to be conducted by the Secretary and (2) the meaning of the term "inconsequential nature."

Sincerely yours,

PAUL G. DEMBLING
(For the Comptroller General of the United States.)

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MOTOR VEHICLE AND SCHOOLBUS SAFETY
AMENDMENTS OF 1974

OCTOBER 8, 1974.—Ordered to be printed

Mr. STAGGERS, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany S. 355]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 355) to amend the National Traffic and Motor Vehicle Safety Act of 1966 to promote traffic safety by providing that defects and failures to comply with motor vehicle safety standards shall be remedied without charge to the owner, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Motor Vehicle and Schoolbus Safety Amendments of 1974".

TITLE I—MOTOR VEHICLE SAFETY

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended to read as follows:

"SEC. 121. There are authorized to be appropriated for the purpose of carrying out this Act, not to exceed \$55,000,000 for the fiscal year ending June 30, 1975, and not to exceed \$60,000,000 for the fiscal year ending June 30, 1976."

SEC. 102. NOTIFICATION AND REMEDY.

(a) **REQUIREMENT OF NOTIFICATION AND REMEDY.**—Title I of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391, et seq.) is amended by striking out section 113 and by adding at the end of such title the following new part:

“Part B—Discovery, Notification, and Remedy of Motor Vehicle Defects

“NOTIFICATION RESPECTING MANUFACTURER’S FINDING OF DEFECT OR FAILURE TO COMPLY

“SEC. 151. If a manufacturer—

“(1) obtains knowledge that any motor vehicle or item of replacement equipment manufactured by him contains a defect and determines in good faith that such defect relates to motor vehicle safety; or

“(2) determines in good faith that such vehicle or item of replacement equipment does not comply with an applicable Federal motor vehicle safety standard prescribed pursuant to section 103 of this Act;

he shall furnish notification to the Secretary and to owners, purchasers, and dealers, in accordance with section 153, and he shall remedy the defect or failure to comply in accordance with section 154.

“NOTIFICATION RESTRICTING SECRETARY’S FINDING OF DEFECT OR FAILURE TO COMPLY

“SEC. 152. (a) If through testing, inspection, investigation, or research carried out pursuant to this Act, or examination of communications under section 158(a) (1), or otherwise, the Secretary determines that any motor vehicle or item of replacement equipment—

“(1) does not comply with an applicable Federal motor vehicle safety standard prescribed pursuant to section 103 of this Act; or

“(2) contains a defect which relates to motor vehicle safety;

he shall immediately notify the manufacturer of such motor vehicle or item of replacement equipment of such determination, and shall publish notice of such determination in the Federal Register. The notification to the manufacturer shall include all information upon which the determination of the Secretary is based. Such notification (including such information) shall be available to any interested person, subject to section 158(a) (2) (B). The Secretary shall afford such manufacturer an opportunity to present data, views, and arguments to establish that there is no defect or failure to comply or that the alleged defect does not affect motor vehicle safety; and shall afford other interested persons an opportunity to present data, views, and arguments respecting the determination of the Secretary.

“(b) If, after such presentations by the manufacturer and interested persons, the Secretary determines that such vehicle or item of replacement equipment does not comply with an applicable Federal motor vehicle safety standard, or contains a defect which relates to motor vehicle safety, the Secretary shall order the manufacturer (1) to furnish notification respecting such vehicle or item of replacement

equipment to owners, purchasers, and dealers in accordance with section 153, and (2) to remedy such defect or failure to comply in accordance with section 154.

“CONTENTS, TIME, AND FORM OF NOTICE

“SEC. 153. (a) The notification required by section 151 or 152 respecting a defect in or failure to comply of a motor vehicle or item of replacement equipment shall contain, in addition to such other matters as the Secretary may prescribe by regulation—

“(1) a clear description of such defect or failure to comply;

“(2) an evaluation of the risk to motor vehicle safety reasonably related to such defect or failure to comply;

“(3) a statement of the measures to be taken to obtain remedy of such defect or failure to comply;

“(4) a statement that the manufacturer furnishing the notification will cause such defect or failure to comply to be remedied without charge pursuant to section 154;

“(5) the earliest date (specified in accordance with the second and third sentences of section 154(b) (2)) on which such defect or failure to comply will be remedied without charge and, in the case of tires, the period during which such defect or failure to comply will be remedied without charge pursuant to section 154; and

“(6) a description of the procedure to be followed by the recipient of the notification in informing the Secretary whenever a manufacturer, distributor, or dealer fails or is unable to remedy without charge such defect or failure to comply.

“(b) The notification required by section 151 or 152 shall be furnished—

“(1) within a reasonable time after the manufacturer first makes a determination with respect to a defect or failure to comply under section 151; or

“(2) within a reasonable time (prescribed by the Secretary) after the manufacturer’s receipt of notice of the Secretary’s determination pursuant to section 152 that there is a defect or failure to comply.

“(c) The notification required by section 151 or 152 with respect to a motor vehicle or item of replacement equipment shall be accomplished—

“(1) in the case of a motor vehicle, by first class mail to each person who is registered under State law as the owner of such vehicle and whose name and address is reasonably ascertainable by the manufacturer through State records or other sources available to him;

“(2) in the case of a motor vehicle, or tire by first class mail to the first purchaser (or if a more recent purchaser is known to the manufacturer, to the most recent purchaser known to the manufacturer) of each such vehicle or tire containing such defect or failure to comply, unless the registered owner (if any) of such vehicle was notified under paragraph (1);

“(3) in the case of an item of replacement equipment (other than a tire) (A) by first class mail to the most recent purchaser

known to the manufacturer; and (B) if the Secretary determines that it is necessary in the interest of motor vehicle safety by public notice in such manner as the Secretary may order after consultation with the manufacturer;

"(4) by certified mail or other more expeditious means to the dealer or dealers of such manufacturer to whom such motor vehicle or replacement equipment was delivered; and

"(5) by certified mail to the Secretary, if section 151 applies. In the case of a tire which contains a defect or failure to comply (or of a motor vehicle on which such tire was installed as original equipment), the manufacturer who is required to provide notification under paragraph (1) or (2) may elect to provide such notification by certified mail.

"REMEDY OF DEFECT OR FAILURE TO COMPLY

"Sec. 154. (a) (1) If notification is required under section 151 or by an order under section 152(b) with respect to any motor vehicle or item of replacement equipment which fails to comply with an applicable Federal motor vehicle safety standard or contains a defect which relates to motor vehicle safety, then the manufacturer of each such motor vehicle or item of replacement equipment presented for remedy pursuant to such notification shall cause such defect or failure to comply in such motor vehicle or such item of replacement equipment to be remedied without charge. In the case of notification required by an order under section 152(b), the preceding sentence shall not apply during any period during which enforcement of the order has been restrained in an action to which section 155(a) applies or if such order has been set aside in such an action.

"(2) (A) In the case of a motor vehicle presented for remedy pursuant to such notification, the manufacturer (subject to subsection (b) of this section) shall cause the vehicle to be remedied by whichever of the following means he elects:

"(i) By repairing such vehicle.

"(ii) By replacing such motor vehicle without charge, with an identical or reasonably equivalent vehicle.

"(iii) By refunding the purchase price of such motor vehicle in full, less a reasonable allowance for depreciation.

Replacement or refund may be subject to such conditions imposed by the manufacturer as the Secretary may permit by regulation.

"(B) In the case of an item of replacement equipment the manufacturer shall (at his election) cause either the repair of such item of replacement equipment, or the replacement of such item of replacement equipment without charge with an identical or reasonably equivalent item of replacement equipment.

"(3) The dealer who effects remedy pursuant to this section without charge shall receive fair and equitable reimbursement for such remedy from the manufacturer.

"(4) The requirement of this section that remedy be provided without charge shall not apply if the motor vehicle or item of replacement equipment was purchased by the first purchaser more than 8 calendar years (3 calendar years in the case of the tire, including an original equipment tire) before (A) notification respecting the defect or failure to comply is furnished pursuant to section 151, or (B) the Secretary orders such notification under section 152, whichever is earlier.

"(5) (A) The manufacturer of a tire (including an original equipment tire) presented for remedy by an owner or purchaser pursuant to notification under section 153 shall not be obligated to remedy such tire if such tire is not presented for remedy during the 60-day period beginning on the later of (i) the date on which the owner or purchaser received such notification or (ii) if the manufacturer elects replacement, the date on which the owner or purchaser received notice that a replacement tire is available.

"(B) If the manufacturer elects replacement and if a replacement tire is not in fact available during the 60-day period, then the limitation under subparagraph (A) on the manufacturer's remedy obligation shall be applicable only if the manufacturer provides a notification (subsequent to the notification provided under subparagraph (A)(ii)) that replacement tires are to be available during a later 60-day period (beginning after such subsequent notification), and in that case the manufacturer's obligation shall be limited to tires presented for remedy during the later 60-day period if the tires are in fact available during that period.

"(b) (1) Whenever a manufacturer has elected under subsection (a) to cause the repair of a defect in a motor vehicle or item of replacement equipment or of a failure of such vehicle or item of replacement equipment to comply with a motor vehicle safety standard, and he has failed to cause such defect or failure to comply to be adequately repaired within a reasonable time, then (A) he shall cause the motor vehicle or item of replacement equipment to be replaced with an identical or reasonably equivalent vehicle or item of replacement equipment without charge, or (B) (in the case of a motor vehicle and if the manufacturer so elects) he shall cause the purchase price to be refunded in full, less a reasonable allowance for depreciation. Failure to adequately repair a motor vehicle or item of replacement equipment within 60 days after tender of the motor vehicle or item of replacement equipment for repair shall be prima facie evidence, of failure to repair within a reasonable time; unless prior to the expiration of such 60-day period the Secretary, by order, extends such 60-day period for good cause shown and published in the Federal Register.

"(2) For purposes of this subsection, the term 'tender' does not include presenting a motor vehicle or item of replacement equipment for repair prior to the earliest date specified in the notification pursuant to section 153(a) on which such defect or failure to comply will be remedied without charge, or (if notification was not afforded pursuant to section 153(a)) prior to the date specified in any notice required to be given under section 155(d). In either case, such date shall be specified by the manufacturer and shall be the earliest date on which parts and facilities can reasonably be expected to be available. Such date shall be subject to disapproval by the Secretary.

"(c) The manufacturer shall file with the Secretary a copy of his program pursuant to this section for remedying any defect or failure to comply, and the Secretary shall make the program available to the public. Notice of such availability shall be published in the Federal Register.

"ENFORCEMENT OF NOTIFICATION AND REMEDY ORDERS

"Sec. 155. (a) (1) An action under section 110(a) to restrain a violation of an order issued under section 152(b), or under section 109 to collect a civil penalty with respect to a violation of such an order, or any other civil action with respect to such an order, may be brought only in the United States district court for the District of Columbia or the United States district court for a judicial district in the State of incorporation (if any) of the manufacturer to which the order applies; unless on motion of any party the court orders a change of venue to any other district court for good cause shown. All actions (including enforcement actions) brought with respect to the same order under section 152(b) shall be consolidated in an action in a single judicial district, in accordance with an order of the court in which the first such action is brought (or if such first action is transferred to another court, by order of such other court).

"(2) The court shall expedite the disposition of any civil action to which this subsection applies.

"(b) If a civil action which relates to an order under section 152(b), and to which subsection (a) of this section applies, has been commenced, the Secretary may order the manufacturer to issue a provisional notification which shall contain—

"(A) a statement that the Secretary has determined that a defect which relates to motor vehicle safety, or failure to comply with a Federal motor vehicle safety standard, exists, and that the manufacturer is contesting such determination in a proceeding in a United States district court,

"(B) a clear description of the Secretary's stated basis for his determination that there is such a defect or failure,

"(C) the Secretary's evaluation of the risk to motor vehicle safety reasonably related to such defect or failure to comply,

"(D) any measures which in the judgment of the Secretary are necessary to avoid an unreasonable hazard resulting from the defect or failure to comply,

"(E) a statement that the manufacturer will cause such defect or failure to comply to be remedied without charge pursuant to section 154, but that this obligation of the manufacturer is conditioned on the outcome of the court proceeding, and

"(F) such other matters as the Secretary may prescribe by regulation or in such order.

Issuance of notification under this subsection does not relieve the manufacturer of any liability for failing to issue notification required by an order under section 152(b).

"(c) (1) If a manufacturer fails to notify owners or purchasers in accordance with section 153(c) within the period specified under section 153(b), the court may hold him liable for a civil penalty with respect to such failure to notify, unless the manufacturer prevails in an action described in subsection (a) of this section or unless the court in such an action restrains the enforcement of such order (in which case he shall not be liable with respect to any period for which the effectiveness of the order was stayed). The court shall restrain the enforcement of such an order only if it determines (A) that the failure to furnish notification is reasonable, and (B) that the manufacturer has demonstrated that he is likely to prevail on the merits.

"(2) If a manufacturer fails to notify owners or purchasers as required by an order under subsection (b) of this section, the court may hold him liable for a civil penalty without regard to whether or not he prevails in an action (to which subsection (a) applies) with respect to the validity of the order issued under section 152(b).

"(d) If (i) a manufacturer fails within the period specified in section 153(b) to comply with an order under section 152(b) to afford notification to owners and purchasers, (ii) a civil action to which subsection (a) applies is commenced with respect to such order, and (iii) the Secretary prevails in such action, then the Secretary shall order the manufacturer—

"(1) to afford notice (which notice may be combined with any notice required by an order under section 152(b)) to each owner, purchaser, and dealer described in section 153(c) of the outcome of the proceeding and containing such other information as the Secretary may require;

"(2) to specify (in accordance with the second and third sentences of section 154(b)) the earliest date on which such defect or failure will be remedied without charge; and

"(3) if notification was required under subsection (b) of this section, to reimburse such owner or purchaser for any reasonable and necessary expenses (not in excess of any amount specified in the order of the Secretary) which are incurred (A) by such owner or purchaser; (B) for the purpose of repairing the defect or failure to comply to which the order relates; and (C) during the period beginning on the date such notification under subsection (b) was required to be issued and ending on the date such owner or purchaser receives notification pursuant to this subsection.

"REASONABLENESS OF NOTIFICATION AND REMEDY

"Sec. 156. Upon petition of any interested person or on his own motion, the Secretary may hold a hearing in which any interested person (including a manufacturer) may make oral (as well as written) presentations of data, views, and arguments on the question of whether a manufacturer has reasonably met his obligation to notify under section 151 or 152, and to remedy a defect or failure to comply under section 154. If the Secretary determines the manufacturer has not reasonably met such obligation, he shall order the manufacturer to take specified action to comply with such obligation; and, in addition, the Secretary may take any other action authorized by this title.

"EXEMPTION FOR INCONSEQUENTIAL DEFECT OR FAILURE TO COMPLY

"Sec. 157. Upon application of a manufacturer, the Secretary shall exempt such manufacturer from any requirement under this part to give notice with respect to, or to remedy, a defect or failure to comply, if he determines, after notice in the Federal Register and opportunity for interested persons to present data, views, and arguments, that such defect or failure to comply is inconsequential as it relates to motor vehicle safety.

"INFORMATION, DISCLOSURE, AND RECORDKEEPING

"SEC. 158. (a) (1) Every manufacturer shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the dealers of such manufacturer or to owners or purchasers of motor vehicle or replacement equipment produced by such manufacturer regarding any defect or failure to comply in such vehicle or equipment which is sold or serviced.

"(2) (A) Except as provided in subparagraph (B), the Secretary shall disclose to the public so much of any information which is obtained under this Act and which relates to a defect which relates to motor vehicle safety or to a failure to comply with an applicable Federal motor vehicle safety standard, as he determines will assist in carrying out the purposes of this part or as may be required by section 152.

"(B) Any information described in subparagraph (A) which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be considered confidential for purposes of that section and shall not be disclosed; unless the Secretary determines that disclosure of such information is necessary to carry out the purposes of this title.

"(C) Any obligation to disclose information under this paragraph shall be in addition to and not in lieu of the requirements of section 522 of title 5, United States Code.

"(b) Every manufacturer of motor vehicles or tires shall cause the establishment and maintenance of records of the name and address of the first purchaser of each motor vehicle and tire produced by such manufacturer. To the extent required by regulations of the Secretary, every manufacturer of motor vehicles or tires shall cause the establishment and maintenance of records of the name and address of the first purchaser of each item of replacement equipment other than a tire produced by such manufacturer. The Secretary may, by rule, specify the records to be established and maintained, and reasonable procedures to be followed by manufacturers in establishing and maintaining such records, including procedures to be followed by distributors and dealers to assist manufacturers to secure the information required by this subsection; except that the availability or not of such assistance shall not affect the obligation of manufacturers under this subsection. Such procedures shall be reasonable for the particular type of motor vehicle or tires for which they are prescribed, and shall provide reasonable assurance that customer lists of any dealer and distributor, and similar information, will not be made available to any person other than the dealer or distributor, except where necessary to carry out the purpose of this part.

"DEFINITIONS

"Sec. 159. For purposes of this part:

"(1) The retreader of tires shall be deemed the manufacturer of tires which have been retreaded, and the brand name owner of tires marketed under a brand name not owned by the manufacturer of the tire shall be deemed the manufacturer of tires marketed under such brand name.

"(2) Except as otherwise provided in regulations of the Secretary:

"(A) The term 'original equipment' means an item of motor vehicle equipment (including a tire) which was installed in or on a motor vehicle at the time of its delivery to the first purchaser.

"(B) The term 'replacement equipment' means motor vehicle equipment (including a tire) other than original equipment.

"(C) A defect in, or failure to comply of an item of original equipment shall be deemed to be a defect in, or failure to comply of the motor vehicle in or on which such equipment was installed at the time of its delivery to the first purchaser.

"(D) If the manufacturer of a motor vehicle is not the manufacturer of original equipment installed in or on such vehicle at the time of its delivery to the first purchaser, the manufacturer of the vehicle (rather than the manufacturer of such equipment) shall be considered the manufacturer of such item of equipment.

"(3) The term 'first purchaser' means first purchaser for purposes other than resale.

"(4) The term 'adequate repair' does not include any repair which results in substantially impaired operation of a motor vehicle or item of replacement equipment.

"EFFECT ON OTHER LAWS

"Sec. 160. The provisions of this part shall not create or affect any warranty obligation under State or Federal law. Consumer remedies under this part are in addition to, and not in lieu of, any other right or remedy under State or Federal law."

(b) Conforming Amendments.—

(1) Title I of such Act is amended by inserting after section 101 the following:

"Part A—General Provisions".

(2) Section 110(c) of such Act is amended by striking out "Actions" and inserting in lieu thereof "Except as provided in section 155(a), actions".

(c) Effective Date.—The amendments made by this section shall not apply to any defect or failure to comply with respect to which, before the effective date of this title, notification was issued under section 113 (a) of such Act or was required to be issued under section 113 (e).

"SEC. 103. ENFORCEMENT.

(a) Prohibited Acts.—

(1) (A) Section 108(a) of the National Traffic and Motor Vehicle Safety Act of 1966 is amended by inserting "(1)" after "Sec. 108. (a)", by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively, and by adding at the end of such subsection the following new paragraph:

"(2) (A) No manufacturer, distributor, dealer, or motor vehicle repair business shall knowingly render inoperative, in whole or in part, any device or element of design installed on or in a motor vehicle or item of motor vehicle equipment in compliance with an applicable Federal motor vehicle safety standard, unless such manufacturer,

distributor, dealer, or repair business reasonably believes that such vehicle or item of equipment will not be used (other than for testing or similar purposes in the course of maintenance or repair) during the time such device or element of design is rendered inoperative. For purposes of this paragraph, the term 'motor vehicle repair business' means any person who holds himself out to the public as in the business of repairing motor vehicles or motor vehicle equipment for compensation.

"(B) The Secretary may by regulation exempt any person from this paragraph if he determines that such exemption is consistent with motor vehicle safety and the purposes of this Act. The Secretary may prescribe regulations defining the term 'render inoperative'.

"(C) This paragraph shall not apply with respect to the rendering inoperative of (i) any safetybelt interlock (as defined in section 125(f)(1)) or (ii) any continuous buzzer (as defined in section 125(f)(4)) designed to indicate that safety belts are not in use.

"(D) Paragraph (1)(A) of this subsection shall not apply to the sale or offering for sale of any motor vehicle which has such a buzzer or interlock rendered inoperative by a dealer at the request of the first purchaser of such vehicle."

(B) Subsection (b) of section 108 of such Act is amended by inserting "(A)" after "Paragraph (1)" in paragraphs (1), (2), and (5) of such subsection and by inserting "(A)" after "paragraph (1)" in paragraph (3) of such subsection.

(2) Section 108(a) of such Act (as amended by paragraph (1) of this subsection) is amended—

(A) by inserting after the semicolon in paragraph (1)(B) the following: "fail to keep specified records in accordance with such section; or fail or refuse to permit impounding, as required under section 112(a);" and

(B) by adding at the end of subsection (a) the following new subparagraph:

"(E) fail to comply with any rule, regulation, or order issued under section 112 or 114; and"

(3) Section 108(a)(1)(D) of such Act is amended to read as follows:

"(D) fail—

"(i) to furnish notification,

"(ii) to remedy any defect or failure to comply, or

"(iii) to maintain records,

as required by part B of this title; or fail to comply with any order or other requirement applicable to any manufacturer, distributor, or dealer pursuant to such part B,"

(b) Penalties.—Section 109 of such Act is amended by striking out "\$400,000" in the second sentence of such subsection (a) and inserting in lieu thereof "\$800,000".

(c) Injunctions.—

(1) The first sentence of section 110(a) of such Act is amended (1) by inserting "(or rules, regulations or orders thereunder)" after "violations of this title", and (2) by inserting immediately after "pursuant to this title," the following: "or to contain a defect (A) which relates to motor vehicle safety and (B) with respect to which notification has been given under section 151 or has been required to be given under section 152(b);".

(2) The next to the last sentence of section 110(a) of such Act is amended by inserting before the period at the end thereof the following: "or to remedy the defect".

SEC. 104. INSPECTION AND RECORDKEEPING.

(a) Subsections (a), (b), and (c) of section 112 of the National Traffic and Motor Vehicle Safety Act of 1966 are amended to read as follows:

"(a)(1) The Secretary is authorized to conduct any inspection or investigation—

"(A) which may be necessary to enforce this title or any rules, regulations, or orders issued thereunder, or

"(B) which relates to the facts, circumstances, conditions, and causes of any motor vehicle accident and which is for the purposes of carrying out his functions under this Act.

The Secretary shall furnish the Attorney General and, when appropriate, the Secretary of the Treasury any information obtained indicating noncompliance with this title or any rules, regulations, or orders issued thereunder, for appropriate action. In making investigations under subparagraph (B), the Secretary shall cooperate with appropriate State and local officials to the greatest extent possible consistent with the purposes of this subsection.

"(2) For purposes of carrying out paragraph (1), officers or employees duly designated by the Secretary, upon presenting appropriate credentials and written notice to the owner, operator, or agent in charge, are authorized at reasonable times and in a reasonable manner—

"(A) to enter (i) any factory, warehouse, or establishment in which motor vehicles or items of motor vehicle equipment are manufactured, or held for introduction into interstate commerce or are held for sale after such introduction, or (ii) any premises where a motor vehicle or item of motor vehicle equipment involved in a motor vehicle accident is located;

"(B) to impound for a period not to exceed 72 hours, any motor vehicle or item of motor vehicle equipment involved in a motor vehicle accident; and

"(C) to inspect any factory, warehouse, establishment, vehicle, or equipment referred to in subparagraph (A) or (B).

Each inspection under this paragraph shall be commenced and completed with reasonable promptness.

"(3)(A) Whenever, under the authority of paragraph (2)(B), the Secretary inspects or temporarily impounds for the purpose of inspection any motor vehicle (other than a vehicle subject to part II of the Interstate Commerce Act) or an item of motor vehicle equipment, he shall pay reasonable compensation to the owner of such vehicle to the extent that such inspection or impounding results in the denial of the use of the vehicle to its owner or in the reduction in value of the vehicle.

"(B) As used in this subsection, 'motor vehicle accident' means an occurrence associated with the maintenance, use, or operation of a motor vehicle or item of motor vehicle equipment in or as a result of which any person suffers death or personal injury, or in which there is property damage.

“(b) Every manufacturer of motor vehicles and motor vehicle equipment shall establish and maintain such records and every manufacturer, dealer, or distributor shall make such reports, as the Secretary may reasonably require to enable him to determine whether such manufacturer, dealer, or distributor has acted or is acting in compliance with this title or any rules, regulations, or orders issued thereunder and shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer, dealer, or distributor has acted or is acting in compliance with this title or any rules, regulations, or orders issued thereunder. Nothing in this subsection shall be construed as imposing recordkeeping requirements on distributors or dealers, except those requirements imposed under section 158 and regulations and order promulgated thereunder.

“(c) (1) For the purpose of carrying out the provisions of this title, the Secretary, or on the authorization of the Secretary, any officer or employee of the Department of Transportation may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary, or such officer or employee, deems advisable.

“(2) In order to carry out the provisions of this title, the Secretary or his duly authorized agent shall at all reasonable times have access to, and for the purposes of examination the right to copy, any documentary evidence of any person having materials or information relevant to any function of the Secretary under this title.

“(3) The Secretary is authorized to require, by general or special orders, any person to file, in such form as the Secretary may prescribe, reports or answers in writing to specific questions relating to any function of the Secretary under this title. Such reports and answers shall be made under oath or otherwise, and shall be filed with the Secretary within such reasonable period as the Secretary may prescribe.

“(4) Any of the district courts of the United States within the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a subpoena or order of the Secretary or such officer or employee issued under paragraph (1) or paragraph (3) of this subsection, issue an order requiring compliance therewith; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

“(5) Witnesses summoned pursuant to this subsection shall be paid the same fees and mileage which are paid witnesses in the courts of the United States.

“(6) (A) The Secretary is authorized to request from any department, agency or instrumentality of the Federal Government such statistics, data, program reports, and other materials as he deems necessary to carry out his functions under this title; and each such department, agency or instrumentality of the Federal Government such statistics, data, program reports, and other materials as he deems necessary to carry out his functions under this title; and each such department, agency, or instrumentality is authorized and directed to cooperate with the Secretary and to furnish such statistics, data, program reports, and other materials to the Department of Transportation

upon request made by the Secretary. Nothing in this subparagraph shall be deemed to affect any provision of law limiting the authority of an agency, department, or instrumentality of the Federal Government to provide information to another agency, department, or instrumentality of the Federal Government.

“(B) The head of any Federal department, agency, or instrumentality is authorized to detail, on a reimbursable basis, any personnel of such department, agency, or instrumentality to assist in carrying out the duties of the Secretary under this title.”

(b) Section 112(e) of such Act is amended by striking out “All” and inserting in lieu thereof “Except as otherwise provided in section 158(a)(2) and section 113(b), all”; and striking out “subsection (b) or (c)” and inserting in lieu thereof “this title”.

SEC. 105. COST INFORMATION.

The National Traffic and Motor Vehicle Safety Act of 1966 (as amended by section 102) is further amended by inserting after section 112 the following:

“SEC. 113. (a) Whenever any manufacturer opposes an action of the Secretary under section 103, or under any other provision of this Act, on the ground of increased cost, the manufacturer shall submit such cost information (in such detail as the Secretary may by regulation or order prescribe) as may be necessary in order to properly evaluate the manufacturer’s statement. The Secretary shall thereafter promptly prepare an evaluation of such cost information.

“(b) (1) Subject to paragraph (2), such cost information together with the Secretary’s evaluation thereof, shall be available to the public. Notice of the availability of such information shall be published in the Federal Register.

“(2) If the manufacturer satisfies the Secretary that any portion of such information contains a trade secret or other confidential matter, such portion may be disclosed to the public only in such manner as to preserve the confidentiality of such trade secret or other confidential matter, except that any such information may be disclosed to other officers or employees concerned with carrying out this title or when relevant in any proceeding under this title. Nothing in this subsection shall authorize the withholding of information by the Secretary or any officer or employee under his control, from the duly authorized committees of the Congress.

“(c) For purposes of this section, the term ‘cost information’ means information with respect to alleged cost increases resulting from action by the Secretary, in such form as to permit the public and the Secretary to make an informed judgment on the validity of the manufacturer’s statements. Such term includes both the manufacturer’s cost and the cost to retail purchasers.

“(d) The Secretary is authorized to establish rules and regulations prescribing forms and procedures for the submission of cost information under this section.

“(e) Nothing in this section shall be construed to restrict the authority of the Secretary to obtain, or require submission of, information under any other provision of this Act.”

SEC. 106. AGENCY RESPONSIBILITY.

The National Traffic and Motor Vehicle Safety Act of 1966 is amended by inserting after section 123 the following new section:

"SEC. 124. (a) Any interested person may file with the Secretary a petition requesting him (1) to commence a proceeding respecting the issuance of an order pursuant to section 103 or to commence a proceeding to determine whether to issue an order pursuant to section 152(b) of this Act.

"(b) Such petition shall set forth (1) facts which it is claimed establish that an order is necessary, and (2) a brief description of the substance of the order which it is claimed should be issued by the Secretary.

"(c) The Secretary may hold a public hearing or may conduct such investigation or proceeding as he deems appropriate in order to determine whether or not such petition should be granted.

"(d) Within 120 days after filing of a petition described in subsection (b), the Secretary shall either grant or deny the petition. If the Secretary grants such petition, he shall promptly commence the proceeding requested in the petition. If the Secretary denies such petition he shall publish in the Federal Register his reasons for such denial.

"(e) The remedies under this section shall be in addition to, and not in lieu of, other remedies provided by law."

SEC. 107. NATIONAL MOTOR VEHICLE SAFETY ADVISORY COUNCIL.

(a) *Public Members.*—Section 104 of the National Traffic and Motor Vehicle Safety Act of 1966 is amended by inserting "(1) after 'Sec. 104. (a)'" and by adding the following new paragraph at the end of subsection (a):

"(2) For the purposes of this section, the term 'representative of the general public' means an individual who (A) is not in the employ of, or holding any official relation to any person who is (i) a manufacturer, dealer, or distributor, or (ii) a supplier of any manufacturer, dealer, or distributor, (B) does not own stock or bonds of substantial value in any person described in subparagraph (A) (i) or (ii), and (C) is not in any other manner directly or indirectly pecuniarily interested in such a person. The Secretary shall publish the names of the members of the Council annually and shall designate which members represent the general public. The Chairman of the Council shall be chosen by the Council from among the members representing the general public."

(b) *Expiration.*—Effective October 1, 1977, section 104 of such Act (as amended by subsection (a) of this section) is repealed.

SEC. 108. FUEL SYSTEM INTEGRITY STANDARD.

(a) *Ratification of Standard.*—Federal Motor Vehicle Safety Standard Number 301 (49 CFR 571.301-75; Docket No. 73-20, Notice 2) as published on March 21, 1974 (39 F.R. 10588-10590) shall take effect on the dates prescribed in such standard (as so published).

(b) *Amendment or Repeal of Standard.*—The Secretary may amend the standard described in subsection (a) in order to correct technical errors in the standard, and may amend or repeal such standard if he determines such amendment or repeal will not diminish the level of motor vehicle safety.

SEC. 109. OCCUPANT RESTRAINT SYSTEMS.

The National Traffic and Motor Vehicle Safety Act of 1966 is amended by inserting after section 124 the following new section:

"SEC. 125. (a) Not later than 60 days after the date of enactment of this section, the Secretary shall amend the Federal motor vehicle safety standard numbered 208 (49 CFR 571.208), so as to bring such standard into conformity with the requirements of paragraphs (1), (2), and (3) of subsection (b) of this section. Such amendment shall take effect not later than 120 days after the date of enactment of this section.

"(b) After the effective date of the amendment prescribed under subsection (a):

"(1) No Federal motor vehicle safety standard may—

"(A) have the effect of requiring, or

"(B) provide that a manufacturer is permitted to comply with such standard by means of, any continuous buzzer designed to indicate that safety belts are not in use, or any safety belt interlock system.

"(2) Except as otherwise provided in paragraph (3), no Federal motor vehicle safety standard respecting occupant restraint system may—

"(A) have the effect of requiring, or

"(B) provide that a manufacturer is permitted to comply with such standard by means of, an occupant restraint system other than a belt system.

"(3) (A) Paragraph (2) shall not apply to a Federal motor vehicle safety standard which provides that a manufacturer is permitted to comply with such standard by equipping motor vehicles manufactured by him with either—

"(i) a belt system, or

"(ii) any other occupant restraint system specified in such standard.

"(B) Paragraph (2) shall not apply to any Federal motor vehicle safety standard which the Secretary elects to promulgate in accordance with the procedure specified in subsection (c), unless it is disapproved by both Houses of Congress by concurrent resolution in accordance with subsection (d).

"(C) Paragraph (2) shall not apply to a Federal motor vehicle safety standard if at the time of promulgation of such standard (i) the 60-day period determined under subsection (d) has expired with respect to any previously promulgated standard which the Secretary has elected to promulgate in accordance with subsection (c), and (ii) both Houses of Congress have not by concurrent resolution within such period disapproved such previously promulgated standard.

"(c) The procedure referred to in subsection (b) (3) (B) and (C) in accordance with which the Secretary may elect to promulgate a standard is as follows:

"(1) The standard shall be promulgated in accordance with section 102 of this Act, subject to the other provisions of this subsection.

"(2) Section 533 of title 5 United States Code, shall apply to such standard; except that the Secretary shall afford interested

persons an opportunity for oral as well as written presentation of data, views, or arguments. A transcript shall be kept of any oral presentation.

"(3) The chairmen and ranking minority members of the House Interstate and Foreign Commerce Committee and the Senate Commerce Committee shall be notified in writing of any proposed standard to which this section applies. Any Member of Congress may make an oral presentation of data, views, or arguments under paragraph (2).

"(4) Any standard promulgated pursuant to this subsection shall be transmitted to Both Houses of Congress, on the same day and to each House while it is in session. In addition, such standard shall be transmitted to the chairmen and ranking minority members of the committees referred to in paragraph (3)

"(d) (1) A standard which the Secretary has elected to promulgate in accordance with subsection (c) shall not be effective if, during the first period of 60 calendar days of continuous session of Congress after the date of transmittal to Congress, both Houses of Congress pass a concurrent resolution the matter after the resolving clause of which reads as follows: 'The Congress disapproves the Federal motor vehicles safety standard transmitted to Congress on _____, 19—; (the blank space being filled with date of transmittal of the standard to Congress). If both Houses do not pass such a resolution during such period, such standard shall not be effective until the expiration of such period (unless the standard specifies a later date).

"(2) For purposes of this section—

"(A) continuity of session of Congress is broken only by an adjournment sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

"(e) This section shall not impair any right which any person may have to obtain judicial review of a Federal motor vehicle safety standard.

"(f) For purposes of this section:

"(1) The term 'safety belt interlock' means any system designed to prevent starting or operation of a motor vehicle if one or more occupants of such vehicle are not using safety belts.

"(2) The term 'belt system' means an occupant restraint system consisting of integrated lap and shoulder belts for front outboard occupants and lap belts for other occupants. With respect to (A) motor vehicles other than passenger vehicles, (B) convertibles, and (C) open-body type vehicles, such term also includes an occupant restraint system consisting of lap belts or lap belts combined with detachable shoulder belts.

"(3) The term 'occupant restraint system' means a system the principal purpose of which is to assure that occupants of a motor vehicle remain in their seats in the event of a collision or rollover. Such term does not include a warning device designed to indicate that seat belts are not in use.

"(4) The term 'continuous buzzer' means a buzzer other than a buzzer which operates only during the 8 second period after the the ignition is turned to the 'start' or 'on' position."

SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Definition of Secretary.—Section 102(10) of the National Traffic and Motor Vehicle Safety Act of 1966 is amended to read as follows:

"(10) 'Secretary' means the Secretary of Transportation."

(b) Date of Annual Report.—The first sentence of section 120(a) of the National Traffic and Motor Vehicle Safety Act of 1966 is amended by striking out "March 1" and inserting in lieu thereof "July 1".

(c) Regrooved Tires.—Section 204(a) of such Act is amended to read as follows:

"(a) No person shall sell, offer for sale, or introduction for sale, or deliver for introduction in interstate commerce, any tire or motor vehicle equipped with any tire which has been regrooved, except that the Secretary may by order permit the sale, offer for sale, introduction for sale, or delivery for introduction in interstate commerce, of regrooved tires and motor vehicles equipped with regrooved tires which he finds are designed and constructed in a manner consistent with the purposes of this Act."

SEC. 111. EFFECTIVE DATE.

The amendments made by this title (other than section 109) shall take effect on the sixtieth day after the date of enactment of this Act; except that section 108(a)(4)(D) of the National Traffic and Motor Vehicle Safety Act of 1966 (as added by section 103(a)(1)(A) of this Act) shall take effect on the date of enactment of this Act.

TITLE II—SCHOOLBUS SAFETY

SEC. 201. DEFINITIONS.

Section 102 of the National Traffic and Motor Vehicle Safety Act of 1966 is amended by adding at the end thereof the following:

"(14) 'schoolbus' means a passenger motor vehicle which is designed to carry more than 10 passengers in addition to the driver, and which the Secretary determines is likely to be significantly used for the purpose of transporting primary, preprimary, or secondary school students to or from such schools or events related to such schools; and

"(15) 'schoolbus equipment' means equipment designed primarily as a system, part, or component of a schoolbus, or any similar part or component manufactured or sold for replacement or improvement of such system, part, or component or as an accessory or addition to a schoolbus."

"SEC. 202. MANDATORY SCHOOLBUS STANDARDS.

Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 is amended by adding at the end thereof the following:

"(i) (1) (A) Not later than 6 month after the date of enactment of this subsection, the Secretary shall publish proposed Federal motor vehicle safety standards to be applicable to schoolbuses and schoolbus equipment. Such proposed standards shall include minimum standards for the following aspects of performance:

"(i) Emergency exits.

"(ii) Interior protection for occupants.

“(iii) Floor strength.

“(iv) Seating systems.

“(v) Crash worthiness of body and frame (including protection against rollover hazards).

“(vi) Vehicle operating systems.

“(vii) Windows and windshields.

“(viii) Fuel systems.

“(B) Not later than 15 months after the date of enactment of this subsection, the Secretary shall promulgate Federal motor vehicle safety standards which shall provide minimum standards for those aspects of performance set out in clauses (i) through (vii) of subparagraph (A) of this paragraph, and which shall apply to each schoolbus and item of schoolbus equipment which is manufactured in or imported into the United States on or after the expiration of the 9-month period which begins on the date of promulgation of such safety standards.

“(2) The Secretary may prescribe regulations requiring that any schoolbus be test-driven by the manufacturer before introduction into commerce.”

SEC. 203. ENFORCEMENT.

Section 108(a)(1) of the National Traffic and Motor Vehicle Safety Act of 1966 is amended by adding at the end thereof the following:

“(F) to fail to comply with regulations of the Secretary under section 103(i)(2).”

TITLE III—MOTOR VEHICLE DEMONSTRATION PROJECTS

SEC. 301. DEMONSTRATION PROJECTS.

(a) Title III of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1961 et seq.) is amended—

(1) by inserting after the heading for such title the following:

“Part A—State Programs”;

(2) by striking out “this title” wherever it appears in sections 301, 302, and 303 and inserting in lieu thereof “this part”;

(3) by redesignating section 304 as section 321; and

(4) by inserting after section 303 the following:

“Part B—Special Demonstration Projects

“AUTHORITY TO ESTABLISH

“Sec. 311. The Secretary shall establish a special motor vehicle diagnostic inspection demonstration project to assist in the rapid development and evaluation of advanced inspection, analysis, and diagnostic equipment suitable for use by the States in standardized high volume inspection facilities and to evaluate the repair characteristics of motor vehicles. Such project shall be designed to facilitate evaluation of repair characteristics by small automotive repair garages.

“Part C—Authorization of Appropriations”.

And the House agreed to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the Senate bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the Senate bill, insert the following:

An Act to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize the appropriations for the fiscal years 1975 and 1976; to provide for the remedy of certain defective motor vehicles without charge to the owners thereof; to require that schoolbus safety standards be prescribed; to amend the Motor Vehicle Information and Cost Savings Act to provide for a special demonstration project; and for other purposes.

And the House agree to the same.

HARLEY O. STAGGERS,
JOHN E. MOSS,
W. S. (BILL) STUCKEY, JR.,
SAMUEL L. DEVINE,
JAMES T. BROYHILL,
Managers on the Part of the House.
WARREN MAGNUSON,
VANCE HARTKE,
FRANK E. MOSS,
TED STEVENS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 355) to amend the National Traffic and Motor Vehicle Safety Act of 1966 to promote traffic safety by providing that defects and failures to comply with motor vehicle safety standards shall be remedied without charge to the owner, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—MOTOR VEHICLE SAFETY

AUTHORIZATION OF APPROPRIATIONS

Senate bill

Section 4 of the Senate bill authorized the appropriation of sums not to exceed \$46,773,000 for the fiscal year ending June 30, 1974 to carry out the purposes of the National Traffic and Motor Vehicle Safety Act of 1966 (hereinafter, "the Act").

House amendment

Section 101 of the House amendment authorized the appropriation of sums for three fiscal years to carry out the purposes of the Act. The amendment authorized the appropriation of sums not to exceed \$55 million for the fiscal year ending June 30, 1975; \$60 million for the fiscal year ending June 30, 1976; and \$65 million for the fiscal year ending June 30, 1977.

Conference substitute

The conference substitute authorizes a two-year appropriation of sums not to exceed \$55 million for the fiscal year ending June 30, 1975 and \$60 million for the fiscal year ending June 30, 1976 for the purposes of implementing the Act.

DISCOVERY, NOTIFICATION, AND REMEDY OF MOTOR VEHICLE DEFECTS

In general, part B of this legislation is based on section 113 of existing law and incorporates the agency hearing and notification

procedures of that section while adding the requirement to remedy defects related to motor vehicle safety and failures to comply with applicable safety standards without charge.

NOTIFICATION RESPECTING MANUFACTURER'S FINDING OF DEFECT OR FAILURE TO COMPLY

Senate bill

Section 3 of the Senate bill amended section 113(a) of the Act to require every manufacturer of motor vehicles or tires to furnish notification to the purchaser of such motor vehicle or item of motor vehicle equipment if the manufacturer discovered that the motor vehicle or item of equipment did not comply with an applicable Federal motor vehicle safety standard or contained a defect related to motor vehicle safety.

House amendment

Section 102 of the House amendment amended Title I of the Act by striking out section 113 and by adding at the end of such title a new part entitled "Part B—Discovery, Notification, and Remedy of Motor Vehicle Defects." Section 151 of Part B as added by the House amendment required manufacturers of vehicles or tires to furnish notification to the Secretary of Transportation (hereinafter, the Secretary) and to owners, purchasers, and dealers of any motor vehicle or item of motor vehicle equipment manufactured by him in accordance with section 153 as added by the House amendment, if he (1) obtained knowledge that such vehicle or item of equipment contained a defect and determined in good faith that such vehicle or item of equipment did not comply with an applicable Federal motor vehicle safety standard prescribed under the Act. Such manufacturer must also remedy such defect or failure to comply in accordance with section 154.

Conference substitute

The conference substitute incorporates section 151 as added to existing law by the House amendment with a conforming change.

NOTIFICATION RESPECTING SECRETARY'S FINDING OF DEFECT OR FAILURE TO COMPLY

Senate bill

Section 3 of the Senate bill also amended section 113(a) of the Act to provide that, if the Secretary determined, through testing, inspection, investigation, research, examination of communications, or through other means, that any motor vehicle or item of motor vehicle equipment produced by a motor vehicle or tire manufacturer contained a defect which related to motor vehicle safety or did not comply with an applicable Federal motor vehicle safety standard prescribed under the Act, that such manufacturer had to notify the purchaser of such motor vehicle or item of motor vehicle equipment.

The Senate bill amended section 113(g) of the Act to require the Secretary to immediately notify the manufacturer of his determination of defect or failure to comply and to supply a statement of his reasons and basis for the findings. Such determination, reasons, and findings would be published immediately in the Federal Register. The Secretary was also required to make available to the manufacturer and any interested person all information, subject to the provisions on confidentiality, upon which the findings are based.

Within seven days after the manufacturer received notification, the manufacturer could file a petition to initiate a proceeding to establish that such motor vehicle or item of motor vehicle equipment did not comply with such standard or did not contain a defect which related to motor vehicle safety; or that such defect or failure to comply was *de minimis*. Such proceeding would commence within twenty-one days of the date of determination and a record of the proceeding would be maintained. In addition, the proceeding would be structured to proceed as expeditiously as possible while permitting the manufacturer and all interested persons an opportunity to present their views. Participants would be given a limited right to cross-examine experts on matters directly related to the issues of defect or failure to comply. Within fourteen days of the conclusion of the proceeding, the Secretary would issue his decision on the petition with a statement of his reasons. If the decision affirmed the original determination of the Secretary, the Secretary would direct such manufacturer to furnish the notification required by section 113 as amended. The Secretary's decision and reasons would be published immediately in the Federal Register.

House amendment

Section 152 of Part B as added by the House amendment required a manufacturer of motor vehicles or motor vehicle equipment to notify and remedy when the Secretary made a final determination that any motor vehicle or item of motor vehicle equipment did not comply with an applicable Federal motor vehicle safety standard or contained a defect which related to motor vehicle safety.

Under section 152(a) as added by the House amendment, if the Secretary made an initial determination (through testing, inspection, investigation, research, examination of communications, or otherwise) of the existence of a defect or failure to comply, he must immediately notify the manufacturer. The notice would contain the findings of the Secretary and include all information upon which the findings were based, including a statement of the primary reasons supporting the Secretary's initial determination that a defect or failure to comply exists. The Secretary was required to afford the manufacturer an opportunity to present his views and evidence to establish that there was no failure of compliance or that the alleged defect did not affect motor vehicle safety. Section 152(b) as added by the House amendment provided that, following the manufacturer's presentation, if the Secretary made a final determination that a motor vehicle or item of its equipment did not comply with an applicable safety standard or contained a defect which related to motor vehicle safety, he would order the manufacturer to notify owners, purchasers, and dealers pursuant to section 153 as added by the House amendment and to remedy the defect or failure to comply pursuant to section 154 as added by the House amendment.

Conference substitute

The conference substitute adopts the provisions of section 152 as added to existing law by the House amendment and incorporates several provisions contained in the Senate bill. Specifically, when the Secretary notifies the manufacturer of a motor vehicle or item of replacement equipment of the initial determination of the existence

of the defect or failure to comply, he must also publish notice of such determination in the Federal Register. The notice to the manufacturer must contain the Secretary's findings and all information upon which his findings are based. Such notice, findings, and information must also be available to any interested person subject to the provisions of section 158(a)(2)(B), as added by the House amendment, with regard to the disclosure of trade secrets and other matter referred to in section 1905 of title 18, United States Code.

Both the manufacturer and other interested persons are afforded an opportunity to present data, views, and arguments respecting the determination of the Secretary. Existing law refers to the presentation of "views and evidence" by the manufacturer in section 133(e) of the Act. The House amendment retained this language. The conference substitute expands the opportunity for participation in the informal hearing to other interested persons. In addition, a technical amendment deletes the term "evidence" when referring to the type of information which may be presented to the Secretary. Instead, both the manufacturer and other interested persons may present "data, views, and arguments" to the Secretary. This change emphasizes the intention of the conferees to retain the informal hearing procedure in existing law. The Secretary's final determination concerning a defect or failure to comply under section 152(b) as added by the House amendment is made after the presentation of data, views, and arguments by the manufacturer and other interested persons.

CONTENTS, TIME, AND FORM OF NOTICE

Senate bill

Section 3 of the Senate bill amended section 113(b) of the Act to provide that the notification to be sent by the manufacturer to the purchaser or owner of a motor vehicle or item of motor vehicle equipment with a defect or failure to comply would contain, in addition to such other matters as the Secretary could prescribe by regulation: (a) a clear description of the defect in any motor vehicle or item of motor vehicle equipment or the failure to comply with any applicable motor vehicle safety standard; (b) an evaluation of the risk to traffic safety reasonably related to such defect or failure to comply; (c) a statement of the measures to be taken to remedy such defects or failure to comply; (d) a statement that the named manufacturer would cause such defect or failure to comply to be remedied without charge; (e) the date when such defect or failure to comply would initially be remedied without charge and, in the case of tires, the final date when such defect or failure to comply would be remedied without charge; and (f) a description of the procedure to be followed in informing the Secretary whenever a manufacturer, distributor, or dealer failed or was unable to remedy without charge such defect or failure to comply. The Senate bill further provided that notification would be furnished within a reasonable time after the discovery by the manufacturer of the defect or failure to comply, or, after the Secretary's determination of the existence of the defect or failure to comply.

Finally, the Senate bill required the notification to be accomplished by certified mail to the first purchaser of the motor vehicle or motor vehicle equipment containing such defect or failure to comply; to any subsequent purchaser of such vehicle or equipment to whom was trans-

ferred any warranty thereon; and to any other person who was a registered owner of such vehicle or equipment and whose name and address was reasonably ascertainable through State records or other sources available to such manufacturer. Additionally, the notification would be provided by certified mail or other more expeditious means to the dealer or dealers of such manufacturer to whom such motor vehicle or motor vehicle equipment was delivered.

House amendment

Section 153(a) as added by the House amendment contained provisions similar to those in the Senate bill regarding the contents of the notice respecting a defect or failure to comply. Regarding the time of notice, section 153(b) as added by the House amendment was also similar to the Senate bill; however, the House amendment provided that notification within a reasonable time by the manufacturer would be made after the manufacturer first made a determination with respect to a defect or failure to comply. After the manufacturer's receipt of notice of the determination by the Secretary of a defect or failure to comply, a manufacturer would furnish the prescribed notification within a reasonable time as prescribed by the Secretary.

Section 153(c) as added by the House amendment differed from the Senate bill regarding the form of notification. Section 153(c)(1) as added by the House amendment directed that notification be accomplished, in the case of a motor vehicle, by first class mail to each person who is registered under State law as the owner of such vehicle and whose name and address is reasonably ascertainable by the manufacturer through State records or other sources available to him. Section 153(c)(2) as added by the House amendment provided that, unless the registered owner (if any) of a motor vehicle or item of motor vehicle equipment was notified under section 153(c)(1) as added by the House amendment, notification would be furnished by first class mail to the first purchaser (or, if a more recent purchaser was known to the manufacturer, to the most recent purchaser known to the manufacturer) of each motor vehicle or item of motor vehicle equipment containing a defect or failure to comply. Like the Senate bill, the House amendment provided notification to the dealer or dealers of the manufacturer by certified mail or more expeditious means. Unlike the Senate bill, the House amendment also provided notification to the Secretary by certified mail. In the case of a tire, the manufacturer could elect to provide notification under section 153(c)(1) and (2) by certified mail.

Conference substitute

The conference substitute incorporates the new section 153 as added to existing law by the House amendment.

As in section 153(c) as added by the House amendment, the conference substitute provides that a tire manufacturer, or a motor vehicle manufacturer in the case of an original tire, may elect to provide notification required by section 153(c) by either first class or certified mail. The conferees agree that regardless of which mode of communication is used, the burden is on the manufacturer to establish the date upon which notification is received for purposes of calculating the 60-day period during which the tire must be repaired or replaced free of charge pursuant to section 154(a)(5).

The provisions of the House amendment as adopted by the committee of conference contain a modification, the intent of which is to clarify the form of notification to be furnished by a manufacturer of replacement equipment concerning a defect or failure to comply in such item of replacement equipment manufactured by him. Unlike a motor vehicle or tire manufacturer, a replacement equipment manufacturer is not required by law to cause the establishment and maintenance of records of the name and address of first purchasers. Therefore, the new section 153(c) (3) requires replacement equipment manufacturers to furnish notification to the most recent purchaser known to the equipment manufacturer. Also, if necessary in the interest of motor vehicle safety, the notification required by section 151 or 152 must be by public notice in such manner as the Secretary may order after consultation with the manufacturer.

The provisions for the form of notification by manufacturers of motor vehicles, original motor vehicle equipment, and tires are the same as those in the House amendment with clarifying changes.

REMEDY OF DEFECT OR FAILURE TO COMPLY

Senate bill

Section 3 of the Senate bill amended section 113(e) of the Act to require a manufacturer to repair a defective or non-complying motor vehicle and item of equipment without charge. It provided that, if any motor vehicle, motor vehicle equipment, or tire was determined by the manufacturer or by the Secretary (after a hearing, where applicable) to contain a safety-related defect or failure to comply with an applicable motor vehicle safety standard, then, after the required notification, the manufacturer of such motor vehicle or tire presented for remedy pursuant to such notification would cause the defect or failure to comply in such motor vehicle or equipment to be remedied without charge. In the case of a tire presented for remedy, the manufacturer of each such tire would replace it without charge for a period up to sixty days after the owner received notification, or sixty days after replacement tires were available, whichever was later. The Senate bill further provided that, in the case of a motor vehicle presented for remedy, if the defect or failure to comply could not be adequately remedied, the Secretary would require the manufacturer, at the manufacturer's option, either to (a) replace such motor vehicle without charge with a new or equivalent vehicle, or (b) refund the purchase price of the motor vehicle in full, plus a reasonable allowance for depreciation.

The Senate bill further provided that the dealer or retailer who performs such remedy work without charge would receive fair and equitable reimbursement for such work from the manufacturer.

The repair without charge provisions of the Senate bill did not apply if the motor vehicle or item of motor vehicle equipment was purchased by the first purchaser more than eight calendar years before the manufacturer received notification from the Secretary of defect or failure to comply.

House amendment

Section 154(a) (1) of Part B as added by the House amendment required the manufacturer of a motor vehicle or item of motor vehicle

equipment to cause a defect or failure to comply in a motor vehicle or item of its equipment to be remedied without charge if notification was required under section 151 or under an order issued pursuant to section 152(b). This statutory obligation to remedy without charge would not apply, however, during any period of time when enforcement of the Secretary's order under section 152(b) was restrained in an action to which section 155(a) applied or when such order was set aside in such an action.

Concerning the method of remedy pursuant to such notification, section 154(a) (2) as added by the House amendment provided that the manufacturer of a tire would repair or replace a defective or non-complying tire without charge during the sixty-day period beginning on the later of (i) the date on which the owner or purchaser received such notification, or (ii) the date on which he received notice that replacement tires were available. The sixty-day provision was intended to give owners or purchasers a reasonable period of time to obtain the remedy and also to encourage their prompt efforts to secure the remedy rather than continue to drive vehicles with unsafe tires.

Section 154(a) (2) also provided that in the case of a motor vehicle presented for remedy pursuant to notification, the manufacturer would elect and provide one of three forms of remedy. First, he could repair the vehicle. Second, he could replace the motor vehicle without charge with a new or equivalent vehicle. Third, he could refund the purchase price of the motor vehicle in full, less a reasonable allowance for depreciation. Replacement or refund could be subject to such conditions imposed by the manufacturer as the Secretary might permit by regulation.

With respect to an item of motor vehicle equipment which contains a safety-related defect or failure to comply with a motor vehicle safety standard, the manufacturer could elect either to repair the item of equipment or replace the item of equipment without charge with a new or equivalent item of equipment.

Like the Senate bill, the House amendment provided that the dealer or retailer who provided remedy pursuant to this section without charge would receive fair and equitable reimbursement for such remedy from the manufacturer. However, the House amendment also provided that such reimbursement was not available where the manufacturer chose to replace the motor vehicle.

Under the provisions of Section 154(b) (1) of Part B as added by the House amendment, whenever a manufacturer elected to repair a defect or failure to comply, he would do so within a reasonable time, which was defined as within 60 days after tender of the vehicle or item of equipment, unless the Secretary extended this period for good cause. If the manufacturer failed to adequately repair within such reasonable time, he would replace the vehicle or item of equipment with a new or equivalent vehicle or item of equipment without charge or, if a manufacturer so elected in the case of a motor vehicle, refund the purchase price in full, less a reasonable allowance for depreciation.

An extension of the 60-day period for remedying a defect or failure to comply was provided for upon a showing of good cause, primarily because the time required to produce and ship replacement parts to dealerships varies with the particular campaign.

The term "tender" was defined in section 154(b)(2) of Part B of the House amendment as not including any tender of a motor vehicle or item of equipment for repair prior to the earliest date specified in notification under section 153(a) on which such remedy would be provided without charge. If notification was not afforded pursuant to section 153(a), tender was not effective prior to the date specified in any notice required to be given under section 155(d). The earliest date, as specified by the manufacturer in any notification, would be the earliest date on which parts and services could reasonably be expected to be available and would be subject to disapproval by the Secretary.

Section 154(a)(4) as added by the House amendment further provided that the requirement of remedy without charge does not apply if the motor vehicle or item of motor vehicle equipment was purchased by the first purchaser more than eight calendar years (three calendar years in the case of a tire) before (1) notification pursuant to section 151 or 152 was issued respecting the defect or failure to comply, or (2) the Secretary ordered such notification, whichever was earlier.

Finally, the House amendment required the manufacturer to file with the Secretary a copy of his program for remedying any defect or failure to comply, and the program would be available to the public.

Conference substitute

The conference substitute adopts the provisions of the new section 154 of the House amendment with the following modifications: First, it clarifies a possible ambiguity in the House provisions relating to the commencement of the sixty-day period during which remedy at no charge is required for tires.

Under the provisions of section 154(a)(5) of the conference substitute, the manufacturer of a tire presented for remedy by an owner or purchaser shall not be obligated to remedy such tire if such tire is not presented during the 60-day period beginning on the later of (1) the date on which the owner or purchaser received notification of defect or failure to comply or (2) if the manufacturer elects replacement, the date on which the owner or purchaser received notice that a replacement tire is available.

The 60-day limitation on the manufacturer's obligation to remedy is effective only if the manufacturer elects to replace the tire and such replacement tires are in fact available during the 60-day period. If the owner or purchaser has presented the tire for replacement during the original 60-day period, but replacement is not in fact available his right to the replacement tire is preserved. In such a case, the owner or purchaser is entitled to notification when the replacement tires become available. Upon receipt of this subsequent notification, the owner or purchaser is entitled to the 60-day period within which to present the tire for replacement as long as such replacement tire is in fact available during this period.

The conference substitute deletes the provision in the House amendment which denied reimbursement to the dealer or retailer who provides remedy work when the manufacturer replaces the motor vehicle. Under the conference substitute, such dealer or retailer is entitled to fair and equitable reimbursement recognizing, for example, that dealer preparation expenses may be involved when a new motor vehicle is offered as a remedy.

Third, the conference substitute requires notice of the availability of the manufacturer's remedy program to be published in the Federal Register.

Fourth, the conferees intend that the provision relieving a manufacturer of the obligation to remedy without charge if the motor vehicle or item of replacement equipment was first purchased more than eight calendar years (three years in the case of a tire) before notification as issued or required to be issued, does not relieve the manufacturer of the obligation to issue a notification concerning a defect or failure to comply or affect any other rights of the owner.

With respect to the manufacturer's assessment of the earliest date upon which parts and facilities can reasonably be expected to be available and the Secretary's authority to disapprove such date, the conferees agree that section 156 as added by the conference substitute is applicable. Where the Secretary disapproves such date, he may, pursuant to such section and on his own motion, hold a hearing to determine if the manufacturer has reasonably met his obligation to remedy a defect or failure to comply. If he determines that such obligation has not been met, then the Secretary may order the manufacturer to take specified action to comply with his obligation. Thus, under this procedure, the Secretary could determine that an earlier date than that determined by the manufacturer is practicable and the Secretary can order the manufacturer to provide parts and facilities on such date.

ENFORCEMENT OF NOTIFICATION AND REMEDY ORDERS AND JUDICIAL REVIEW

Senate bill

The Senate bill provided specifically for pre-enforcement judicial review of the Secretary's determination that there was a defect or failure to comply with an applicable motor vehicle safety standard. Any person aggrieved by such determination was authorized to seek judicial review in the United States Court of Appeals for the District of Columbia within 20 days after the Secretary's determination. The Senate bill provided for expedited review and specifically provided that the factual findings of the Secretary were to be sustained if supported by substantial evidence on the record considered as a whole. The Senate bill did not make such judicial review exclusive. Therefore, under the Senate bill judicial review at the enforcement stage may have been available.

House amendment

In general, the House amendment contemplated that there would be review of the Secretary's determination of defect or failure to comply at the enforcement stage of the administrative process. The House took no position on whether or not pre-enforcement judicial review was also available.

Section 155(a)(1) as added by the House amendment established the forum for an action under section 110(a) of the Act to restrain a violation of an order issued by the Secretary to furnish notification and to remedy a defect or failure to comply, or under section 109 of the Act to collect a civil penalty with respect to a violation of such an order, or for any other civil action with respect to such an order. All States district court for the District of Columbia or the United States district court for judicial district in the State or incorporation of

the manufacturer to which the order applied. While (as noted above) the House did not take any position on the question of whether or not a manufacturer was entitled to pre-enforcement judicial review of a notification and remedy order, the amendment did provide that, if the court so permitted, the action would be consolidated with any enforcement action brought by the Secretary. All actions (including enforcement actions) brought with respect to the same order under section 152(b) would be considered in an action in a single judicial district, in accordance with the order of the court in which the first action was brought.

Section 155(a)(2) as added by the House amendment also provided that, if an action was brought which related to an order under section 152(b), and to which section 155(a) applied, the Secretary could order the manufacturer to issue a notification in addition to, and not in lieu of, notification required by section 151 or 152 of the House amendment if such manufacturer had refused to issue such notification. Notification would contain (1) a statement that the Secretary determined that a defect which related to motor vehicle safety or a failure to comply with a motor vehicle safety standard existed, and that the manufacturer was contesting such determination in a proceeding in a United States district court; (2) a clear description of the Secretary's stated basis for his determination; (3) the Secretary's evaluation of the risk to motor vehicle safety reasonably related to such defect or failure to comply; (4) any measures which in the judgment of the Secretary were necessary to avoid an unreasonable hazard resulting from the defect or failure to comply; (5) a statement that the manufacturer would cause such defect or failure to comply to be remedied without charge, but that this obligation of the manufacturer was conditioned on the outcome of the court proceeding; and (6) such other matters as the Secretary could prescribe by regulation.

Section 155(c) as added by the House amendment provided that a manufacturer who failed to notify owners or purchasers in accordance with section 153(c) within the period specified under section 153(b) may be assessed a civil penalty with respect to such failure unless the manufacturer prevailed in an action under this section, or unless the court restrained the enforcement of such order throughout the pendency of the action. A manufacturer who failed to notify owners or purchasers as required by an order under section 155(b) could be assessed a civil penalty without regard to whether or not he prevailed in an action described in section 155(a) with respect to the validity of the Secretary's order to notify or remedy under section 152(b).

Section 155(d) of Part B as added by the House amendment contained the conditions and provisions for notification to owners and purchasers of the outcome of a section 155(a) proceeding in a United States district court. The Secretary was required to order a manufacturer to issue this notification if (i) a manufacturer failed within the specified period to comply with an order under section 152(b) to afford notification to owners and purchasers; (ii) a section 155(a) proceeding was commenced with respect to such order; and (iii) the Secretary prevailed in such proceeding. Therefore, this final notification would be required whether or not a manufacturer afforded noti-

fication to owners and purchasers pursuant to an order under section 152(b) after the commencement of a proceeding in a United States district court and whether or not a manufacturer was required to issue an additional notification under section 155(b) during the pendency of the court proceeding. The expense to the manufacturer of sending notification pursuant to section 155(d), which could or could not be the first notification actually mailed to owners and purchasers, was outweighed by the public interest in informing owners and purchasers of the outcome of the court proceeding if the Secretary prevailed and of the availability of remedy without charge for the defect or failure to comply. Subsection (d)(1) of section 155 permitted the combining of notification under this section with any notice required by an order under section 152(b), so that the manufacturer could be spared the expense of two notifications if the Secretary prevailed in a civil action under section 155(a). The notification under section 155(d) could contain such information as required by the Secretary, for example, the items specified in section 153(a), and would specify the earliest date on which such defect or failure to comply would be remedied without charge.

If the Secretary required the additional notification under section 155(b) during the pendency of a district court proceeding, then he would order the manufacturer to reimburse the owner or purchaser for any reasonable and necessary expenses (not in excess of any amount specified in the order) which were incurred: (A) by such owner or purchaser; (B) for the purpose of repairing the defect or failure to comply to which the order related; and (C) during the period beginning on the date such notification under section 155(b) was required to be issued and ending on the date such owner or purchaser received notification pursuant to this subsection. The Secretary would thus have the responsibility for deciding the amount of reimbursement to which owners and purchasers could be entitled and should consider carefully the nature of the defect or failure to comply to which his order under this section related and the type of remedy necessary for such defect or failure to comply. A reasonable estimate of the average prevailing rates for this type of remedy work would be necessary to establish the amount of reimbursement.

Conference substitute

The conferees agreed to adopt the provisions of section 155 as added by the House amendment but made certain modifications, the substance of which is discussed below.

The conference substitute permits a person sued by the Secretary to restrain a violation of an order to notify and to remedy (or to collect a civil penalty) to seek removal from the district court in which such action is brought to any other district court for good cause shown. It also specifically provides that a consolidation of all actions brought with respect to the same order under section 152(b) will take place in the court in which the first such action is brought or in the court to which such first action brought is transferred. In other words, if an action is first brought in district court *A* and three weeks later an action is brought in district court *B* and four weeks later the action in court *A* is transferred to court *C*, then court *C* is required to consolidate the actions.

The conference substitute also specifies the test which the district court is to apply in determining whether to restrain the enforcement of an order to notify and remedy (or to collect a civil penalty), thereby relieving the manufacturer during the pendency of the proceeding from exposure to civil penalties. The conference substitute provides that the court shall restrain the enforcement of the order only if it determines both that the failure to furnish notification is reasonable and that the manufacturer has demonstrated that he is likely to prevail on the merits.

The conferees disagreed with those who interpreted the House bill as possibly requiring a manufacturer, during the pendency of an action to restrain or enforce, to remedy without charge a defect or failure to comply. The conferees discussed but decided to take no position on whether or not pre-enforcement judicial review was available under the terms of the conference substitute. The conferees decided to leave that question to the courts. If the courts permit such pre-enforcement judicial review, then the venue and consolidation provisions of the conference substitute would apply so as to accomplish consolidation of any pre-enforcement judicial review actions which had not been completed prior to the Secretary's bringing an action to restrain a violation of an order to notify and remedy or to collect a civil penalty for failure to notify or to remedy.

The conferees gave careful consideration to the question of the weight which a district court would give to the Secretary's determination of defect. While the conferees agreed that the proceeding in the district court could appropriately be characterized as a "de novo" proceeding, the conferees expected the district court to give due consideration to the expertise of the agency in its consideration of the facts as to whether or not there was a defect and whether such defect was safety related. With respect to any challenge to the validity of an underlying motor vehicle safety standard when the Secretary has determined that there has been a failure to comply, the conferees determined that a collateral attack on the motor vehicle safety standard was permissible if such attack was not *res judicata* because of previous judicial review. In any such collateral attack, however, the standard of review by the district court would be the same as a standard of review in a court reviewing the validity of the motor vehicle safety standard at the pre-enforcement stage of the administrative process. In other words, there would be no de novo review of the facts as to whether or not there had been a failure to comply with such standard.

The conferees intend that a manufacturer for whom the order to notify and remedy has not been restrained during the pendency of such action would not be subject to a court order to remedy without charge and his exposure to a civil penalty would depend on the outcome of such action. In other words, a court could not compel him to remedy during the pendency of any enforcement or other civil action with respect to an order issued under section 152(b).

REASONABLENESS OF REMEDY

Senate bill

The Senate bill provided that the Secretary would approve with or without modification after consultation with the manufacturer of a

motor vehicle or tire, such manufacturer's remedy plan. The review included the date when and the method by which the notification and remedy would be effectuated. The Senate bill further provided that the date would be the earliest practicable one, but would not exceed sixty days from the date of discovery or determination of the defect or failure to comply. The Secretary was empowered to grant an extension of this period for good cause and to publish notice of such extension in the Federal Register.

The manufacturer was bound to implement the remedy plan as approved by the Secretary. However, the manufacturer could apply to the Secretary to approve any amendment or modification of the plan for good cause shown, provided notice of such modification was reasonably publicized by the manufacturer. The application and the decision rendered on the application would be published in the Federal Register within five days after receipt or issuance. Good cause was defined to mean "unavoidable delay due to strikes, catastrophe, or natural disaster."

House amendment

As indicated previously, section 154(c) as added by the House amendment required the manufacturer to file with the Secretary a copy of his program to remedy a defect or failure to comply, and the program would be available to the public. Section 156 of the House amendment further provided that upon petition of any interested person, or on his own motion, the Secretary could hold a hearing in which any interested person (including a manufacturer) could make oral (as well as written) presentations of data, views, and arguments on the question of whether a manufacturer has reasonably met his obligation to remedy a defect or failure to comply under section 154. If the Secretary determined that a manufacturer did not reasonably meet the obligation, he would order the manufacturer to take specified action to comply with such obligation.

Conference substitute

The conference substitute adopts the provisions of the House amendment with two clarifying amendments. First, the Secretary is authorized under section 156 as added by the conference substitute to consider whether the manufacturer has reasonably met his obligation not only to remedy a defect or failure to comply, but also to provide notification pursuant to section 151 or 152.

Second, section 156 now states that if the Secretary determines the manufacturer has not reasonably met his obligation to notify and remedy, the Secretary shall order the manufacturer to take the specified action to comply and the Secretary may also take any other action authorized by Title I of the National Traffic and Motor Vehicle Safety Act. Thus, for example, the Secretary may assess a civil penalty for a failure of the manufacturer to meet his obligation to notify and remedy.

EXEMPTION FOR INCONSEQUENTIAL DEFECT OR FAILURE TO COMPLY

Senate bill

The Senate bill allowed a manufacturer to petition the Secretary to initiate a proceeding to establish that a defect or failure to comply was *de minimis* in its impact on the number of traffic accidents and

deaths and injuries to persons resulting from traffic accidents. If the manufacturer was successful in such a proceeding, he was not obligated to remedy without charge.

House amendment

Section 157 as added by the House amendment provided that upon application of a manufacturer, the Secretary would exempt such manufacturer from giving notice or remedying a defect or failure to comply if the Secretary determined, after public notice and opportunity for presentation of data, views, and arguments, that such defect or failure to comply was inconsequential as it related to motor vehicle safety.

Conference substitute

The conference substitute is the same as the House amendment except that interested persons as well as the manufacturer are given the opportunity to present data, views, and arguments to the Secretary after notice is published in the Federal Register.

Senate bill

Section 3 of the Senate bill added a new section 113(h) to the Act authorizing the Secretary to file an action against an imminently hazardous motor vehicle or item of motor vehicle equipment for the seizure of such vehicle or equipment, and against the manufacturer, distributor or dealer of such motor vehicle equipment. An "imminent hazard" was defined to mean a motor vehicle or item of motor vehicle equipment which presented immediate and unreasonable risk of death, serious illness, or severe personal injury. The court in which such an action was filed shall have jurisdiction to declare that such motor vehicle or item of motor vehicle equipment was imminently hazardous, and to grant such temporary or permanent relief as might be necessary to protect the public from the risk.

In an action filed against an imminently hazardous motor vehicle or item of motor vehicle equipment, such a vehicle or equipment could be proceeded against by process of libel for the seizure and condemnation of such product in any district court of the United States within the judicial district in which such motor vehicle or item of motor vehicle equipment was found.

House amendment

No comparable provision.

Conference substitute

The conference substitute omits the "Imminent Hazard" provision of the Senate bill. The purpose of this section—to insure the ability of the Secretary to act swiftly when a motor vehicle or item of replacement equipment presents an immediate and unreasonable risk—can be accomplished under the provisions of the conference substitute.

Under the new section 152 of the conference substitute, when the Secretary makes an initial determination of a defect or failure to comply in a motor vehicle or item of replacement equipment, he shall immediately notify the manufacturer of such determination and shall publish notice of such determination in the Federal Register. The manufacturer and interested persons are afforded the opportunity to present data, views, and arguments on the issue of whether a defect

or failure to comply exists. Section 152(b) of the conference substitute provides that after such presentation, if the Secretary determines that such vehicle or item of replacement equipment does not comply with an applicable Federal motor vehicle safety standard or contains a defect which relates to motor vehicle safety, then the Secretary shall order notification and remedy without charge.

The committee of conference believes that if the Secretary makes an initial determination that a defect or failure to comply in a motor vehicle or item of replacement equipment poses an immediate and unreasonable risk of death, serious illness, or personal injury, he may expedite the public notice and informal comment procedures. If the Secretary's final determination (after such notice and opportunity for comment) is that such defect or failure to comply poses such an immediate and unreasonable risk, he shall immediately issue an order under section 152(b) to the manufacturer to furnish notification and to remedy.

Additionally, the Secretary may seek to utilize the provisions of section 110(a) of the Act as modified by this legislation. The United States district courts are given jurisdiction thereunder to restrain violations of Title I of the Act, or rules, regulations, or orders thereunder, to restrain the sale or importation of any motor vehicle or item of replacement equipment which does not comply with an applicable motor vehicle safety standard or contains a defect which relates to motor vehicle safety and with respect to which notification has been required under section 152(b). Thus, once the section 152(b) order has been issued in the expedited procedure above, any vehicle or item of replacement equipment to which the order applies which has not yet been sold to a first purchaser (other than a dealer) is subject to a restraining order of the court.

INFORMATION, DISCLOSURE, AND RECORDKEEPING

Senate bill

Section 3 of the Senate bill included provisions similar to section 113(d) of existing law and provided that every manufacturer of motor vehicles or tires would furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the dealers of such manufacturer or to the purchasers of motor vehicles or motor vehicle equipment produced by such manufacturer regarding any defect in such vehicle or equipment which is sold or serviced. The section also required the Secretary to disclose so much of any information referred to under this subsection, the subsection relating to the defect or failure to comply, or section 112(a) of the Act as the Secretary determined would assist in carrying out the purposes of the Act. However, the Secretary would not disclose to the public any information which contained or related to a trade secret or other matter referred to in section 1905 of title 18, United States Code, unless he determined that it was necessary to carry out the purposes of the Act.

Section 113(d) of the Act, as amended by the Senate bill further required every manufacturer of motor vehicles or tires to maintain records of the names and addresses of the first purchaser of motor vehicles or tires produced by the manufacturer. The Secretary was empowered to establish, by order, procedures to be followed by manufacturers

in establishing and maintaining such records, including procedures to be followed by distributors and dealers to assist manufacturers to secure the required information. The availability or not of such assistance would not effect the obligation of manufacturers under this section.

House amendment

Section 153(a) of the House amendment contained a similar provision relating to information and disclosure. It further specified that the Secretary would disclose to the public so much of any information which is obtained under the Act and which related to a defect, which related to motor vehicle safety, or to a failure to comply with an applicable federal motor vehicle safety standard, as he determined would assist in carrying out the purposes of Part B of the Act. Any information containing or relating to a trade secret or other matter referred to in section 1905 of title 18, United States Code, would be considered confidential for purposes of that section and not be disclosed, unless the Secretary determined that disclosure was necessary to carry out the purposes of Part B of the Act.

Section 158(b) as added by the House amendment required every manufacturer of motor vehicles or tires to cause the establishment and maintenance of records of the name and address of the first purchaser of each motor vehicle and tire (and to the extent required by regulations of the Secretary, each item of motor vehicle equipment other than a tire) produced by such manufacturer. The Secretary could also, by rule, specify the records to be established and maintained, and reasonable procedures to be followed by manufacturers in establishing and maintaining such records, including procedures to be followed by distributors and dealers to assist manufacturers to secure the required information. The availability or not of such assistance would not affect the manufacturer's obligation. The Secretary's recordkeeping procedures must be reasonable and provide reasonable assurance that dealer and distributor customer lists, and similar information, would not be made available except where necessary to carry out the purpose of Part B of the Act.

Conference substitute

The new section 158 of the conference substitute adopts the House provisions with clarifying changes.

DEFINITIONS

Senate bill

Section 3 of the Senate bill amended section 113(a) of the Act to provide that for the purposes of notification and remedy without charge, the retreader of tires would be deemed the manufacturer of tires which have been retreaded, and the brand name owner of tires marketed under brand name not owned by the manufacturer of the tire, would be deemed the manufacturer of tires marketed under the brand name.

House amendment

Section 159(1) of Part B as added by the House amendment contained identical definitions relating to the retreader of tires and the brand name owner of tires.

In addition, the House amendment by definition in section 159(2) of Part B, the manufacturer of a motor vehicle was deemed to be the manufacturer of any motor vehicle equipment with which such vehicle was equipped at the time of delivery to the first purchaser for purposes other than resale, unless the Secretary provided otherwise by regulation. Any defect or failure to comply in such equipment was deemed to be a defect in such vehicle.

Section 159(3) of Part B of the House amendment specifically provides that the "first purchaser" means first purchaser for purposes other than resale. Also, section 159(4) of the House amendment provides that "adequate repair" does not include any repair which results in substantially impaired operation of a motor vehicle or item of motor vehicle equipment.

Conference substitute

The conference substitute adopts the provisions with respect to retreaders of tires and brand name owners contained in both the House amendment and the Senate bill. In addition, the conference substitute also incorporates the definitions of "first purchaser" and "adequate repair" contained in the House amendment.

In order to clarify ambiguities in both the Senate bill and House amendment, new definitions are adopted by the conference substitute. The new definitions do not reflect any policy changes in the provisions of the House amendment. Those new definitions are as follows:

(1) The term 'original equipment' is defined to mean motor vehicle equipment which was installed in or on a motor vehicle at the time of its delivery to the first purchaser.

(2) The term 'replacement equipment' is defined to mean motor vehicle equipment other than original equipment.

(3) A defect or failure to comply in an item of original equipment shall be deemed to be a defect or failure to comply in the motor vehicle in or on which such equipment was installed at the time of its delivery to the first purchaser.

(4) If the manufacturer of a motor vehicle is not the manufacturer of original equipment installed in or on such vehicle at the time of its delivery to the first purchaser, the manufacturer of the vehicle (rather than the manufacturer) of such equipment shall be considered the manufacturer of such item of equipment.

In addition, with respect to these definitions and as in the House amendment, the Secretary may provide otherwise by regulation.

Conforming changes are made throughout the conference substitute to reflect these definitions.

EFFECTIVE DATE

Senate bill

No provision.

House amendment

The House amendment provided that the amendments to existing law made by section 102 would not apply to any defect or failure to comply with respect to which, before the effective date of this title, notification was issued by the manufacturer under section 113(a) of the Act, or was required to be issued under section 113(e).

Conference substitute

The conference substitute adopts the provisions of the House amendment.

*Enforcement**Senate bill*

Section 2 of the Senate bill amended Section 108(a)(4) of the National Traffic and Motor Vehicle Safety Act to make it a prohibited act to fail to furnish notification, fail to remedy any defect or failure to comply, fail to maintain records, or fail to meet any other obligation imposed upon any manufacturer, distributor, or dealer pursuant to the new notification and remedy provisions.

Section 103 of the House amendment amended section 108 of the Act. A new section 108(a)(2) was added which prohibited any manufacturer, distributor, dealer, or motor vehicle repair business from knowingly rendering inoperative in whole or part, any device or element of design installed on or in a motor vehicle or item of motor vehicle equipment in compliance with an applicable Federal motor vehicle safety standard, unless such manufacturer, distributor, dealer, or repair business reasonably believed that such vehicle or item of equipment would not be used (other than for testing or similar purpose in the course of maintenance or repair) during the time such device or element of design was rendered inoperative. The term, "motor vehicle repair business" was defined to include any person who holds himself out to the public as in the business of repairing motor vehicles or their equipment for compensation.

The Secretary was authorized to prescribe regulations defining the term "render inoperative" and to exempt by rule any person if he determined such exemption was consistent with motor vehicle safety and the purposes of the Act.

Section 103 of the House amendment also amended section 108(a) of the Act to specify as prohibited acts the failure to keep specified records under section 112; failure or refusal to permit impounding of motor vehicles as required under section 112(b); and the failure to comply with any rule, regulation, or order issued under section 112 or 114 of the Act, as amended.

Section 108(a)(1)(D) of the Act was amended to make it a prohibited act to fail to furnish notification, fail to remedy any defect or failure to comply, fail to maintain records, or fail to comply with any order or other requirement applicable to any manufacturer, distributor, or dealer pursuant to Part B of Title I.

Section 103(b) of the House amendment amended section 109 of the Act by increasing the maximum civil penalty from \$400,000 to \$800,000.

Section 103(c)(1) of the House amendment altered section 110(a) of the Act to give the United States district courts the jurisdiction to restrain violations of rules, regulations, or orders issued under Title I of the Act. The district courts would also have the jurisdiction to restrain the sale or importation of motor vehicles or items of motor vehicle equipment which were non-complying or contained a defect which related to motor vehicle safety and with respect to which notification was given under section 151 or required to be given under section 152(b).

A conforming amendment to section 110(a) in section 103(c)(2) of the House amendment required the Secretary to give notice of a contemplated injunctive action and afford a reasonable opportunity to remedy the defect, as well as to achieve compliance.

Conference substitute

The conference substitute adopts the provisions of the House amendment.

Regarding the Secretary's authority to prescribe regulations defining the term "render inoperative," the conferees intend that these regulations should make it clear that the permanent removal, disconnection, or degradation of the safety performance of any such device or element of design is prohibited.

The words, device or element of design, are intended to include components of a motor vehicle or item of its equipment as well as an entire system to which safety standards are applicable.

However, an item of motor vehicle equipment installed in or on a motor vehicle may be replaced with an item of motor vehicle equipment which is a replacement part complying with any applicable Federal motor vehicle safety standard and any applicable Federal motor vehicle safety standard and any applicable Federal vehicle-in-use standard for equipment. It is not the purpose of this amendment to limit in any way the use of independent aftermarket repair and service parts in the repair or replacement of components incorporated in the vehicle at the time of manufacture pursuant to the requirements of Federal motor vehicle safety standards.

This amendment to the enforcement provisions of existing law is intended to insure that safety equipment on a motor vehicle continues to benefit motorists during the life of the vehicle. The protection of subsequent, as well as first, purchasers of a motor vehicle is thereby assured. The expenditure of federal funds on motor vehicle safety would be to little effect if as a general rule devices or elements of design installed in compliance with applicable Federal safety standards were rendered inoperative.

Section 110 of this legislation requires the Secretary to amend Federal motor vehicle safety standard 208 so as to no longer require or permit compliance by means of any continuous buzzer designed to indicate that safety belts are not fastened, or any safety belt interlock system.

Section 108(a) of the Act as amended will permit a manufacturer, distributor, dealer, or motor vehicle repair business to render inoperative (i) any continuous buzzer (as defined in section 125(f)(4)) designed to indicate that safety belts are not fastened, or (ii) any safety belt interlock. In addition, effective on the date of enactment of the bill, dealers could, at the request of purchasers, render inoperative interlocks and continuous buzzers that were required by the standards in effect at the time of manufacture of the vehicle.

The amendments to section 108 of the Act will remove any doubt that the civil penalty authority under section 109 of the Act can be used to enforce all rules, regulations and orders issued under section 112 or 114. These sections will also permit the Secretary to seek civil penalties against those persons who fail or refuse to permit impounding or inspection of motor vehicles or entry of premises for such purpose as required under section 112, as amended by this bill.

These amendments to section 110(a) expand the injunctive authority of the Secretary so as to permit the restraining of (1) the importation into the United States of vehicles that contain a defect related to motor vehicle safety and (2) the sale of vehicles in this country that contain such a defect. This authority will enable the Secretary, when he learns of the existence of vehicles that comply with all applicable safety standards but are nevertheless defective, to obtain a court order stopping the manufacturer and/or dealers from continuing to sell the defective vehicles. (Those defective vehicles already sold will, of course, be the subject of a defect notification campaign provided for in section 151 and 152 of the Act, as amended by this legislation.)

This authority will also enable the Secretary to seek an injunction to prevent the importation or sale of foreign manufactured vehicles, certified as complying with the standards, but damaged in transit to such an extent that they are considered defective. Presently, these vehicles cannot be prevented from entering the country unless the Secretary has evidence of noncompliance with an applicable safety standard. In the past, several foreign vehicle manufacturers have advised the Secretary that unauthorized dealers were attempting to bring damaged vehicles into this country.

INSPECTION AND RECORDKEEPING

Senate bill

No comparable provision.

House amendment

Section 104 of the House amendment revised section 112 (a), (b), and (c) of the Act to make clear that the Secretary was authorized to conduct any inspection or investigation which might be necessary to enforce Title I and any rules, regulations, or orders issued thereunder, or which related to the facts, circumstances, conditions, and causes of any motor vehicle accident and which was for the purpose of carrying out his functions under this Act.

The Secretary was required to furnish the Attorney General and, when appropriate, the Secretary of the Treasury, any information obtained indicating noncompliance with this Title, or any rules, regulations, or orders issued thereunder. In carrying out these inspections or investigations, officers or employees designated by the Secretary, upon presenting appropriate credentials and written notice to the owner, operator or agent in charge, were authorized at reasonable times and in a reasonable manner to (1) enter any factory, warehouse, or establishment in which motor vehicles or items of motor vehicle equipment were manufactured, held for introduction in interstate commerce, or held for sale after such introduction, or to enter any premises where motor vehicle or item of motor vehicle equipment involved in a motor vehicle accident was located; (2) to impound for a period not to exceed 72 hours, any motor vehicle or item of motor vehicle equipment involved in a motor vehicle accident; and (3) to inspect any factory, warehouse, establishment, vehicle, or equipment referred to in (1) or in (2) above.

Whenever the Secretary inspected or temporarily impounded for the purpose of inspection any motor vehicle, he would pay reasonable compensation to the extent that such inspection or impounding re-

sulted in denial of the use of the vehicle to its owner or in the reduction of value of the vehicle.

Section 104 of the House amendment also altered section 112(b) of the Act to require every manufacturer of motor vehicles and motor vehicle equipment to establish and maintain such records and every manufacturer, dealer, or distributor to make such reports as the Secretary could reasonably require to enable him to determine whether such person was in compliance with Title I or any rules, regulations, or orders issued thereunder. Duly designated officers or employees of the Secretary were authorized to inspect appropriate materials relevant to determining compliance.

Section 104 of the House amendment altered section 112(c) of the Act to allow the Secretary to conduct informational hearings and to obtain evidence from any person who had any information relevant to the implementation of the Act. The Secretary or any authorized officer of the Department could hold hearings, take testimony under oath, and require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of records. Access to and copying of any documentary evidence of any person having materials or information relevant to any function of the Secretary under Title I of the Act was authorized. The Secretary was also permitted to require, by general or special orders, any person to file prescribed reports, or answers in writing to specific questions relating to any function of the Secretary under Title I. Such reports and answers would be made under oath or otherwise and filed within a reasonable period as prescribed. The district courts of the United States would have jurisdiction to enforce a subpoena or order of the Secretary or his officer or employee.

Under section 104 of the House amendment, section 112(c) permitted the Secretary to request from any department, agency, or instrumentality of the government, such statistics, data, program reports, and other materials as necessary to carry out his functions under Title I. Such departments, agencies, or instrumentalities were authorized and directed to cooperate and furnish such materials to the Secretary unless another provision of law limited their authority to do so.

Finally, the amendment to section 112(e) in section 104 of the House amendment would prohibit, except in expressly specified situations, the Secretary from disclosing information received under Title I, as amended, if it contained a trade secret or other material referred to in 18 U.S.C. 1905.

Conference substitute

The conference substitute adopts the House provisions.

COST INFORMATION

Senate bill

No comparable provision.

House amendment

Section 105 of the House amendment inserted a new section 113 which required a manufacturer to submit such cost information (in such detail as may be prescribed by rule or order of the Secretary), as may be necessary to properly evaluate the manufacturer's statement, whenever a manufacturer opposed an action of the Secretary

under section 103 or any other provision of the Act. The Secretary was required to promptly prepare an evaluation of such cost information. Such information, together with the Secretary's evaluation would be available to the public by notice published in the Federal Register, unless the manufacturer established that it contained a trade secret. Any portion of such a trade secret may be disclosed to the public only in such manner as to preserve the confidentiality of such trade secret. However, a trade secret may be disclosed to other officers or employees carrying out this title or when relevant in any proceeding under this title. Nothing therein authorized the withholding of information from the duly authorized committees of Congress.

The term "cost information" is defined to include both the manufacturer's cost and the cost of the retail purchaser.

Conference substitute

The conference substitute incorporates the new section 113(a) of section 105 of the House amendment which requires manufacturers to submit cost information (in such detail as the Secretary may by rule or order prescribe) whenever such manufacturer opposes an action of the Secretary under section 103, or any other provision of this Act, on the ground of increased cost. The Secretary shall thereafter promptly prepare an evaluation of such cost information.

The conference substitute modifies the provisions of the House amendment with respect to the availability of such cost information to the public. Subject to the exceptions noted below, the cost information obtained under this section, as well as the Secretary's evaluation thereof, shall be available to the public. Notice of the availability of such information shall be published in the Federal Register.

The exception to the presumption of availability of the cost information to the public under this section is if the manufacturer satisfies the Secretary that any portion of such information contains a trade secret or other confidential matter. If the manufacturer succeeds, such portion of the cost information shall still be released, but only in a manner as to preserve the confidentiality of the trade secret or other confidential matter. Confidential matter is intended to mean that information which is not generally known to competitors and if known, would be competitively harmful. Any information obtained by the Secretary under this section may be disclosed to other officers or employees concerned with carrying out Title I of the Act or when relevant in any proceeding under such title. Nothing in the aforementioned subsection shall authorize the withholding of information by the Secretary or any officer or employee under his control, from the duly authorized committees of the Congress.

The conference substitute further retains the definition of "cost information" contained in the House amendment as well as the authority of the Secretary to establish rules and regulations prescribing forms and procedures for submission of cost information under this section.

Finally, the purpose of this section is to require the Secretary to solicit and evaluate cost information when there is a challenge to an action of the Secretary under section 103 or any other provision of the Act. However, nothing in this section restricts the authority of the Secretary to obtain or require the submission of information, including cost information, under any other provision of the Act.

AGENCY RESPONSIBILITY

Senate bill

No comparable provision.

House amendment

Section 106 of the House amendment added a new section 124 which allowed any interested person to file with the Secretary a petition requesting him to commence a proceeding to promulgate a Federal motor vehicle safety standard pursuant to Section 103 or to determine whether to issue an order pursuant to the new section 152(d) concerning a defect or failure to comply. The petition would set forth the facts establishing that an order is necessary and a brief description of the substance of the order to be issued by the Secretary. The Secretary could hold a public hearing or conduct an investigation or proceeding to determine whether to grant the petition. The Secretary was required to either grant or deny the petition within 120 days after filing. If granted, the proceeding would commence promptly; if denied, the reasons therefor would be published in the Federal Register.

Other remedies provided by law concerning agency responsibility, judicial review of agency action, or failure to act are preserved.

Conference substitute

The conference substitute adopts the House provisions.

NATIONAL MOTOR VEHICLE SAFETY ADVISORY COUNCIL

Senate bill

No comparable provision.

House amendment

Section 107 of the House amendment revised section 104 of the Act by defining the term "representative of the general public" to include individuals with an economic interest in the automobile industry. It further required the Secretary to publish the names of the members of the Council annually and to designate which members represent the general public. The Chairman of the Council would be chosen by the Council from among the members representing the general public.

Conference substitute

The conference substitute adopts the House provision with one addition. The Federal Advisory Committee Act provides that the life of any advisory committee not specifically extended shall lapse. The conference substitute extends the life of the National Motor Vehicle Safety Advisory Council until October 1, 1977. On that date the Council will lapse and the duty of the Secretary to consult the Council will be abolished unless Council again extends the life of the Council.

FUEL SYSTEM INTEGRITY STANDARD

Senate bill

No comparable provision.

House amendment

Section 108(a) of the House amendment provided that within 90 days after the effective date, the Secretary would promulgate a motor vehicle safety standard for fuel system integrity applicable to four

wheeled motor vehicles designed to carry 10 or fewer passengers in addition to the driver in order to protect occupants of such vehicles, and other persons, from fuel-fed fires. The House language specified a specific performance standard as well as specific dates upon which the standard was to become effective. Section 108(b) of the House amendment provided that the Secretary could amend or repeal such standard if he determined that doing so would not diminish the level of motor vehicle safety.

Conference substitute

While the conference substitute adopts the intent of the House amendment to establish legislatively a fuel system integrity standard, it does so by incorporating by reference Federal Motor Vehicle Safety Standard Number 301, as published on March 21, 1974 in the Federal Register. The new language provides that such standard shall take effect on the dates prescribed in such standard as so published. The conference substitute permits the Secretary to amend such standard in order to correct technical errors in the standard, and may amend or repeal such standard if he determines such amendment or repeal will not diminish the level of motor vehicle safety.

OCCUPANT RESTRAINT SYSTEMS

Senate bill

No comparable provision.

House amendment

Section 110 of the House amendment added a new provision to section 103(a) of the Act which prohibited Federal motor vehicle safety standards from requiring that any motor vehicle be equipped (1) with a safety belt interlock system; (2) with any warning device other than a warning light designed to indicate that safety belts were not fastened; or (3) with any occupant restraint system other than an integrated lap and shoulder safety belt for front outboard occupants and lap belts for other occupants. In addition, the House amendment provided that, effective with respect to passenger cars manufactured on or after August 15, 1976, Federal motor vehicle safety standards would require that the purchaser of a motor vehicle be offered the option of purchasing either (1) passenger motor vehicles which are equipped with passive restraint systems which meet standards prescribed under section 103 of the Act or (2) passenger motor vehicles equipped with integrated lap and shoulder belts for front outboard occupants and lap belts for other occupants.

The House amendment further made it a prohibited act under the Act to fail to offer purchasers the option required above.

Conference substitute

The conference substitute, in summary, provides as follows:

1. As soon as possible, but no later than 120 days after the date of enactment, the Department of Transportation must amend the motor vehicle safety standard pertaining to occupant restraints so as to eliminate the safety belt interlock system and any continuous buzzer designed to indicate that safety belts are not fastened.

2. The authority of the Secretary to establish a mandatory occupant restraint standard using a belt system (integrated lap and shoulder

belt except for certain special vehicles where only a lap belt or some other combination could be required) is not affected.

3. If the Secretary of Transportation wants to establish some other occupant restraint system, he must follow these procedures: (a) afford interested persons an opportunity for the presentation of oral as well as written data, views, or arguments; (b) keep a transcript of the oral presentation; (c) notify the Chairmen of the House Interstate and Foreign Commerce Committee and the Senate Commerce Committee.

4. No occupant restraint system other than a belt system could become effective until Congress was given an opportunity to consider such standard for sixty days of continuous session (except that DOT could permit a manufacturer (at his option) to comply with a standard with a nonbelt system instead of a belt system). Once a nonbelt system is permitted to become effective, then further changes in occupant restraint standards would not be subject to disapproval. If Congress passes a concurrent resolution rejecting the standard promulgated by the Secretary of Transportation, then the standard does not take effect.

5. No matter what procedure is followed, the conference substitute prohibits the re-establishment of the safety belt interlock system or continuous buzzer as a mandatory or optional motor vehicle safety standard.

TECHNICAL AND CONFORMING AMENDMENTS

Senate bill

No comparable provisions.

House amendments

Section 110(a) of the House amendment amends section 102(10) of the Act to state that "Secretary" means the Secretary of Transportation to whom all functions under the Act were transferred by the Department of Transportation Act. Section 110(b) amends Section 120(a) of the Act to permit the Secretary to submit the Annual Report on the implementation of the Act on July 1 of each year rather than March 1.

Section 110(c) of the House amendment amended section 204(a) of the Act to authorize the Secretary to permit by order the lease, as well as the sale, of regrooved tires and motor vehicles equipped with regrooved tires which he found were designed and constructed in a manner consistent with the purposes of the Act.

Conference substitute

The conference substitute adopts the House provisions.

REDUCTION OF MOTOR VEHICLE WEIGHT AND COST

Senate bill

No comparable provision.

House amendment

Section 111 of the House amendment required the Secretary, in carrying out his responsibilities under the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, to take all steps, consistent with his responsibilities under

those Acts, to encourage reduction in weight and cost of motor vehicles.

Conference substitute

The conference substitute deletes the provision of the House amendment relating to the reduction of motor vehicle weight and cost. The provision was intended by the House to be advisory in nature and neither expanded nor contracted the Secretary's existing authority with regard to motor vehicle safety. The conferees were informed by officials of the Department of Transportation that weight and cost factors are considered as a matter of course in standard-setting proceedings under the National Traffic and Motor Vehicle Safety Act.

Additionally, the conferees agreed to delete this section in anticipation of more comprehensive legislation designed to integrate federal conservation, environmental and safety goals for the motor vehicle.

EFFECTIVE DATE

Senate bill

No comparable provision.

House amendment

Section 113 of the House amendment provided that the amendments made by this title (other than the section on occupant restraint systems) would take effect on the sixtieth day after the date of enactment of this Act.

Conference substitute

Section 111 of the conference substitute adopts the House provision.

TITLE II—SCHOOLBUS SAFETY

Senate bill

No comparable provisions.

House amendment

Section 201 of Title II of the House amendment added two new definitions to section 102 of the Act. First, "schoolbus" was defined to mean a passenger motor vehicle which was designed to carry more than ten passengers in addition to the driver, and which the Secretary determined was likely to be significantly used for the purpose of transporting primary, pre-primary, or secondary school students to or from such schools or events related to such schools. Second, "schoolbus equipment" was defined to mean equipment designed primarily as a system, part, or component of a schoolbus, or any similar part or component manufactured or sold for replacement or improvement of such system, part, or component, or as an accessory or addition to a schoolbus.

Section 202 of the House amendment amended section 103 of the Act to require that not later than six months after the date of enactment, the Secretary would publish proposed Federal motor vehicle safety standards to be applicable to schoolbuses and schoolbus equipment. Such proposed standards shall include minimum standards for the following aspects of performance; (1) emergency exits; (2) interior protection for occupants; (3) floor strength; (4) seating systems; (5) crashworthiness of body and frames (including protection

against rollover hazards); (6) vehicle operating systems; (7) windows and windshields; and (8) fuel systems.

Not later than fifteen months after the date of enactment, the Secretary would promulgate Federal motor vehicle safety standards which provided minimum standards for the aforementioned aspects of performance and which would apply to each schoolbus and item of schoolbus equipment which is manufactured in or imported into the United States on or after the expiration of the nine-month period which begins on the date of promulgation of such safety standards. The Secretary was further authorized to prescribe regulations requiring that any schoolbus is to be test-driven by the manufacturer before introduction into commerce. Failure to so test is a prohibited act under section 108.

Conference substitute

The conference substitute adopts the House provisions.

TITLE III—MOTOR VEHICLE DEMONSTRATION PROJECTS

Senate bill.

No comparable provision.

House amendment

Section 301 of the House amendment amended Title III of the Motor Vehicle Information and Cost Savings Act to require the Secretary to establish a special motor vehicle diagnostic inspection demonstration project to assist in the rapid development and evaluation of advanced inspection, analysis, and diagnostic equipment suitable for use by the States in standardized high-volume inspection facilities and to evaluate the repair characteristics of motor vehicles. Such project would be designed to facilitate evaluation of repair characteristics by small automotive repair garages.

Conference substitute

The conference substitute adopts the provisions of the House amendment with clarifying changes.

HARLEY O. STAGGERS,
JOHN E. MOSS,
W. S. (BILL) STUCKEY, Jr.,
SAMUEL L. DEVINE,
JAMES T. BROYHILL,
Managers on the Part of the House.
WARREN MAGNUSON,
VANCE HARTKE,
FRANK E. MOSS,
TED STEVENS,
Managers on the Part of the Senate.

Ninety-third Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-first day of January,
one thousand nine hundred and seventy-four*

An Act

To amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations for the fiscal years 1975 and 1976; to provide for the remedy of certain defective motor vehicles without charge to the owners thereof; to require that schoolbus safety standards be prescribed; to amend the Motor Vehicle Information and Cost Savings Act to provide for a special demonstration project; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Motor Vehicle and Schoolbus Safety Amendments of 1974".

TITLE I—MOTOR VEHICLE SAFETY

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended to read as follows:

"SEC. 121. There are authorized to be appropriated for the purpose of carrying out this Act, not to exceed \$55,000,000 for the fiscal year ending June 30, 1975, and not to exceed \$60,000,000 for the fiscal year ending June 30, 1976."

SEC. 102. NOTIFICATION AND REMEDY.

(a) REQUIREMENT OF NOTIFICATION AND REMEDY.—Title I of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391, et seq.) is amended by striking out section 113 and by adding at the end of such title the following new part:

"PART B—DISCOVERY, NOTIFICATION, AND REMEDY OF MOTOR VEHICLE DEFECTS

"NOTIFICATION RESPECTING MANUFACTURER'S FINDING OF DEFECT OR FAILURE TO COMPLY

"SEC. 151. If a manufacturer—

"(1) obtains knowledge that any motor vehicle or item of replacement equipment manufactured by him contains a defect and determines in good faith that such defect relates to motor vehicle safety; or

"(2) determines in good faith that such vehicle or item of replacement equipment does not comply with an applicable Federal motor vehicle safety standard prescribed pursuant to section 103 of this Act;

he shall furnish notification to the Secretary and to owners, purchasers, and dealers, in accordance with section 153, and he shall remedy the defect or failure to comply in accordance with section 154.

"NOTIFICATION RESPECTING SECRETARY'S FINDING OF DEFECT OR FAILURE TO COMPLY

"SEC. 152. (a) If through testing, inspection, investigation, or research carried out pursuant to this Act, or examination of communications under section 158(a)(1), or otherwise, the Secretary determines that any motor vehicle or item of replacement equipment—

"(1) does not comply with an applicable Federal motor vehicle safety standard prescribed pursuant to section 103 of this Act; or

“(2) contains a defect which relates to motor vehicle safety; he shall immediately notify the manufacturer of such motor vehicle or item of replacement equipment of such determination, and shall publish notice of such determination in the Federal Register. The notification to the manufacturer shall include all information upon which the determination of the Secretary is based. Such notification (including such information) shall be available to any interested person, subject to section 158(a)(2)(B). The Secretary shall afford such manufacturer an opportunity to present data, views, and arguments to establish that there is no defect or failure to comply or that the alleged defect does not affect motor vehicle safety; and shall afford other interested persons an opportunity to present data, views, and arguments respecting the determination of the Secretary.

“(b) If, after such presentations by the manufacturer and interested persons, the Secretary determines that such vehicle or item of replacement equipment does not comply with an applicable Federal motor vehicle safety standard, or contains a defect which relates to motor vehicle safety, the Secretary shall order the manufacturer (1) to furnish notification respecting such vehicle or item of replacement equipment to owners, purchasers, and dealers in accordance with section 153, and (2) to remedy such defect or failure to comply in accordance with section 154.

“CONTENTS, TIME, AND FORM OF NOTICE

“SEC. 153. (a) The notification required by section 151 or 152 respecting a defect in or failure to comply of a motor vehicle or item of replacement equipment shall contain, in addition to such other matters as the Secretary may prescribe by regulation—

“(1) a clear description of such defect or failure to comply;

“(2) an evaluation of the risk to motor vehicle safety reasonably related to such defect or failure to comply;

“(3) a statement of the measures to be taken to obtain remedy of such defect or failure to comply;

“(4) a statement that the manufacturer furnishing the notification will cause such defect or failure to comply to be remedied without charge pursuant to section 154;

“(5) the earliest date (specified in accordance with the second and third sentences of section 154(b)(2)) on which such defect or failure to comply will be remedied without charge and, in the case of tires, the period during which such defect or failure to comply will be remedied without charge pursuant to section 154; and

“(6) a description of the procedure to be followed by the recipient of the notification in informing the Secretary whenever a manufacturer, distributor, or dealer fails or is unable to remedy without charge such defect or failure to comply.

“(b) The notification required by section 151 or 152 shall be furnished—

“(1) within a reasonable time after the manufacturer first makes a determination with respect to a defect or failure to comply under section 151; or

“(2) within a reasonable time (prescribed by the Secretary) after the manufacturer's receipt of notice of the Secretary's determination pursuant to section 152 that there is a defect or failure to comply.

“(c) The notification required by section 151 or 152 with respect to a motor vehicle or item of replacement equipment shall be accomplished—

“(1) in the case of a motor vehicle, by first class mail to each person who is registered under State law as the owner of such vehicle and whose name and address is reasonably ascertainable by the manufacturer through State records or other sources available to him;

“(2) in the case of a motor vehicle, or tire, by first class mail to the first purchaser (or if a more recent purchaser is known to the manufacturer, to the most recent purchaser known to the manufacturer) of each such vehicle or tire containing such defect or failure to comply, unless the registered owner (if any) of such vehicle was notified under paragraph (1);

“(3) in the case of an item of replacement equipment (other than a tire), (A) by first class mail to the most recent purchaser known to the manufacturer; and (B) if the Secretary determines that it is necessary in the interest of motor vehicle safety, by public notice in such manner as the Secretary may order after consultation with the manufacturer;

“(4) by certified mail or other more expeditious means to the dealer or dealers of such manufacturer to whom such motor vehicle or replacement equipment was delivered; and

“(5) by certified mail to the Secretary, if section 151 applies. In the case of a tire which contains a defect or failure to comply (or of a motor vehicle on which such tire was installed as original equipment), the manufacturer who is required to provide notification under paragraph (1) or (2) may elect to provide such notification by certified mail.

“REMEDY OF DEFECT OR FAILURE TO COMPLY

“SEC. 154. (a) (1) If notification is required under section 151 or by an order under section 152(b) with respect to any motor vehicle or item of replacement equipment which fails to comply with an applicable Federal motor vehicle safety standard or contains a defect which relates to motor vehicle safety, then the manufacturer of each such motor vehicle or item of replacement equipment presented for remedy pursuant to such notification shall cause such defect or failure to comply in such motor vehicle or such item of replacement equipment to be remedied without charge. In the case of notification required by an order under section 152(b), the preceding sentence shall not apply during any period during which enforcement of the order has been restrained in an action to which section 155(a) applies or if such order has been set aside in such an action.

“(2) (A) In the case of a motor vehicle presented for remedy pursuant to such notification, the manufacturer (subject to subsection (b) of this section) shall cause the vehicle to be remedied by whichever of the following means he elects:

“(i) By repairing such vehicle.

“(ii) By replacing such motor vehicle without charge, with an identical or reasonably equivalent vehicle.

“(iii) By refunding the purchase price of such motor vehicle in full, less a reasonable allowance for depreciation.

Replacement or refund may be subject to such conditions imposed by the manufacturer as the Secretary may permit by regulation.

“(B) In the case of an item of replacement equipment the manufacturer shall (at his election) cause either the repair of such item of replacement equipment, or the replacement of such item of replacement equipment without charge with an identical or reasonably equivalent item of replacement equipment.

“(3) The dealer who effects remedy pursuant to this section without charge shall receive fair and equitable reimbursement for such remedy from the manufacturer.

“(4) The requirement of this section that remedy be provided without charge shall not apply if the motor vehicle or item of replacement equipment was purchased by the first purchaser more than 8 calendar years (3 calendar years in the case of a tire, including an original equipment tire) before (A) notification respecting the defect or failure to comply is furnished pursuant to section 151, or (B) the Secretary orders such notification under section 152, whichever is earlier.

“(5) (A) The manufacturer of a tire (including an original equipment tire) presented for remedy by an owner or purchaser pursuant to notification under section 153 shall not be obligated to remedy such tire if such tire is not presented for remedy during the 60-day period beginning on the later of (i) the date on which the owner or purchaser received such notification or (ii) if the manufacturer elects replacement, the date on which the owner or purchaser received notice that a replacement tire is available.

“(B) If the manufacturer elects replacement and if a replacement tire is not in fact available during the 60-day period, then the limitation under subparagraph (A) on the manufacturer’s remedy obligation shall be applicable only if the manufacturer provides a notification (subsequent to the notification provided under subparagraph (A) (ii)) that replacement tires are to be available during a later 60-day period (beginning after such subsequent notification), and in that case the manufacturer’s obligation shall be limited to tires presented for remedy during the later 60-day period if the tires are in fact available during that period.

“(b) (1) Whenever a manufacturer has elected under subsection (a) to cause the repair of a defect in a motor vehicle or item of replacement equipment or of a failure of such vehicle or item of replacement equipment to comply with a motor vehicle safety standard, and he has failed to cause such defect or failure to comply to be adequately repaired within a reasonable time, then (A) he shall cause the motor vehicle or item of replacement equipment to be replaced with an identical or reasonably equivalent vehicle or item of replacement equipment without charge, or (B) (in the case of a motor vehicle and if the manufacturer so elects) he shall cause the purchase price to be refunded in full, less a reasonable allowance for depreciation. Failure to adequately repair a motor vehicle or item of replacement equipment within 60 days after tender of the motor vehicle or item of replacement equipment for repair shall be prima facie evidence of failure to repair within a reasonable time; unless prior to the expiration of such 60-day period the Secretary, by order, extends such 60-day period for good cause shown and published in the Federal Register.

“(2) For purposes of this subsection, the term ‘tender’ does not include presenting a motor vehicle or item of replacement equipment for repair prior to the earliest date specified in the notification pursuant to section 153(a) on which such defect or failure to comply will be remedied without charge, or (if notification was not afforded pursuant to section 153(a)) prior to the date specified in any notice required to be given under section 155(d). In either case, such date shall be specified by the manufacturer and shall be the earliest date on which parts and facilities can reasonably be expected to be available. Such date shall be subject to disapproval by the Secretary.

“(c) The manufacturer shall file with the Secretary a copy of his program pursuant to this section for remedying any defect or failure to comply, and the Secretary shall make the program available to the public. Notice of such availability shall be published in the Federal Register.

“ENFORCEMENT OF NOTIFICATION AND REMEDY ORDERS

“SEC. 155. (a)(1) An action under section 110(a) to restrain a violation of an order issued under section 152(b), or under section 109 to collect a civil penalty with respect to a violation of such an order, or any other civil action with respect to such an order, may be brought only in the United States district court for the District of Columbia or the United States district court for a judicial district in the State of incorporation (if any) of the manufacturer to which the order applies; unless on motion of any party the court orders a change of venue to any other district court for good cause shown. All actions (including enforcement actions) brought with respect to the same order under section 152(b) shall be consolidated in an action in a single judicial district, in accordance with an order of the court in which the first such action is brought (or if such first action is transferred to another court, by order of such other court).

“(2) The court shall expedite the disposition of any civil action to which this subsection applies.

“(b) If a civil action which relates to an order under section 152(b), and to which subsection (a) of this section applies, has been commenced, the Secretary may order the manufacturer to issue a provisional notification which shall contain—

“(A) a statement that the Secretary has determined that a defect which relates to motor vehicle safety, or failure to comply with a Federal motor vehicle safety standard, exists, and that the manufacturer is contesting such determination in a proceeding in a United States district court,

“(B) a clear description of the Secretary's stated basis for his determination that there is such a defect or failure,

“(C) the Secretary's evaluation of the risk to motor vehicle safety reasonably related to such defect or failure to comply,

“(D) any measures which in the judgment of the Secretary are necessary to avoid an unreasonable hazard resulting from the defect or failure to comply,

“(E) a statement that the manufacturer will cause such defect or failure to comply to be remedied without charge pursuant to section 154, but that this obligation of the manufacturer is conditioned on the outcome of the court proceeding, and

“(F) such other matters as the Secretary may prescribe by regulation or in such order.

Issuance of notification under this subsection does not relieve the manufacturer of any liability for failing to issue notification required by an order under section 152(b).

“(c)(1) If a manufacturer fails to notify owners or purchasers in accordance with section 153(c) within the period specified under section 153(b), the court may hold him liable for a civil penalty with respect to such failure to notify, unless the manufacturer prevails in an action described in subsection (a) of this section or unless the court in such an action restrains the enforcement of such order (in which case he shall not be liable with respect to any period for which the effectiveness of the order was stayed). The court shall restrain the enforcement of such an order only if it determines. (A) that the failure to furnish notification is reasonable, and (B) that the manufacturer has demonstrated that he is likely to prevail on the merits.

“(2) If a manufacturer fails to notify owners or purchasers as required by an order under subsection (b) of this section, the court may hold him liable for a civil penalty without regard to whether or not he prevails in an action (to which subsection (a) applies) with respect to the validity of the order issued under section 152(b).

“(d) If (i) a manufacturer fails within the period specified in section 153(b) to comply with an order under section 152(b) to afford notification to owners and purchasers, (ii) a civil action to which subsection (a) applies is commenced with respect to such order, and (iii) the Secretary prevails in such action, then the Secretary shall order the manufacturer—

“(1) to afford notice (which notice may be combined with any notice required by an order under section 152(b)) to each owner, purchaser, and dealer described in section 153(c) of the outcome of the proceeding and containing such other information as the Secretary may require;

“(2) to specify (in accordance with the second and third sentences of section 154(b)) the earliest date on which such defect or failure will be remedied without charge; and

“(3) if notification was required under subsection (b) of this section, to reimburse such owner or purchaser for any reasonable and necessary expenses (not in excess of any amount specified in the order of the Secretary) which are incurred (A) by such owner or purchaser; (B) for the purpose of repairing the defect or failure to comply to which the order relates; and (C) during the period beginning on the date such notification under subsection (b) was required to be issued and ending on the date such owner or purchaser receives notification pursuant to this subsection.

“REASONABLENESS OF NOTIFICATION AND REMEDY

“SEC. 156. Upon petition of any interested person or on his own motion, the Secretary may hold a hearing in which any interested person (including a manufacturer) may make oral (as well as written) presentations of data, views, and arguments on the question of whether a manufacturer has reasonably met his obligation to notify under section 151 or 152, and to remedy a defect or failure to comply under section 154. If the Secretary determines the manufacturer has not reasonably met such obligation, he shall order the manufacturer to take specified action to comply with such obligation; and, in addition, the Secretary may take any other action authorized by this title.

“EXEMPTION FOR INCONSEQUENTIAL DEFECT OR FAILURE TO COMPLY

“SEC. 157. Upon application of a manufacturer, the Secretary shall exempt such manufacturer from any requirement under this part to give notice with respect to, or to remedy, a defect or failure to comply, if he determines, after notice in the Federal Register and opportunity for interested persons to present data, views, and arguments, that such defect or failure to comply is inconsequential as it relates to motor vehicle safety.

“INFORMATION, DISCLOSURE, AND RECORDKEEPING

“SEC. 158. (a) (1) Every manufacturer shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the dealers of such manufacturer or to owners or purchasers of motor vehicle or replacement equipment produced by such manufacturer regarding any defect or failure to comply in such vehicle or equipment which is sold or serviced.

“(2) (A) Except as provided in subparagraph (B), the Secretary shall disclose to the public so much of any information which is obtained under this Act and which relates to a defect which relates to motor vehicle safety or to a failure to comply with an applicable Federal motor vehicle safety standard, as he determines will assist in carrying out the purposes of this part or as may be required by section 152.

“(B) Any information described in subparagraph (A) which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be considered confidential for purposes of that section and shall not be disclosed; unless the Secretary determines that disclosure of such information is necessary to carry out the purposes of this title.

“(C) Any obligation to disclose information under this paragraph shall be in addition to and not in lieu of the requirements of section 552 of title 5, United States Code.

“(b) Every manufacturer of motor vehicles or tires shall cause the establishment and maintenance of records of the name and address of the first purchaser of each motor vehicle and tire produced by such manufacturer. To the extent required by regulations of the Secretary, every manufacturer of motor vehicles or tires shall cause the establishment and maintenance of records of the name and address of the first purchaser of each item of replacement equipment other than a tire produced by such manufacturer. The Secretary may, by rule, specify the records to be established and maintained, and reasonable procedures to be followed by manufacturers in establishing and maintaining such records, including procedures to be followed by distributors and dealers to assist manufacturers to secure the information required by this subsection; except that the availability or not of such assistance shall not affect the obligation of manufacturers under this subsection. Such procedures shall be reasonable for the particular type of motor vehicle or tires for which they are prescribed, and shall provide reasonable assurance that customer lists of any dealer and distributor, and similar information, will not be made available to any person other than the dealer or distributor, except where necessary to carry out the purpose of this part.

“DEFINITIONS

“SEC. 159. For purposes of this part:

“(1) The retreader of tires shall be deemed the manufacturer of tires which have been retreaded, and the brand name owner of tires marketed under a brand name not owned by the manufacturer of the tire shall be deemed the manufacturer of tires marketed under such brand name.

“(2) Except as otherwise provided in regulations of the Secretary:

“(A) The term ‘original equipment’ means an item of motor vehicle equipment (including a tire) which was installed in or on a motor vehicle at the time of its delivery to the first purchaser.

“(B) The term ‘replacement equipment’ means motor vehicle equipment (including a tire) other than original equipment.

“(C) A defect in, or failure to comply of, an item of original equipment shall be deemed to be a defect in, or failure to comply of, the motor vehicle in or on which such equipment was installed at the time of its delivery to the first purchaser.

“(D) If the manufacturer of a motor vehicle is not the manufacturer of original equipment installed in or on such vehicle at the time of its delivery to the first purchaser, the manufacturer of the vehicle (rather than the manufacturer of such equipment) shall be considered the manufacturer of such item of equipment.

“(3) The term ‘first purchaser’ means first purchaser for purposes other than resale.

“(4) The term ‘adequate repair’ does not include any repair which results in substantially impaired operation of a motor vehicle or item of replacement equipment.

“EFFECT ON OTHER LAWS

“SEC. 160. The provisions of this part shall not create or affect any warranty obligation under State or Federal law. Consumer remedies under this part are in addition to, and not in lieu of, any other right or remedy under State or Federal law.”

(b) CONFORMING AMENDMENTS.—

(1) Title I of such Act is amended by inserting after section 101 the following:

“PART A—GENERAL PROVISIONS”.

(2) Section 110(c) of such Act is amended by striking out “Actions” and inserting in lieu thereof “Except as provided in section 155(a), actions”.

(c) EFFECTIVE DATE.—The amendments made by this section shall not apply to any defect or failure to comply with respect to which, before the effective date of this title, notification was issued under section 113(a) of such Act or was required to be issued under section 113(e).

SEC. 103. ENFORCEMENT.

(a) PROHIBITED ACTS.—

(1) (A) Section 108(a) of the National Traffic and Motor Vehicle Safety Act of 1966 is amended by inserting “(1)” after “Sec. 108. (a)”, by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively, and by adding at the end of such subsection the following new paragraph:

“(2) (A) No manufacturer, distributor, dealer, or motor vehicle repair business shall knowingly render inoperative, in whole or part, any device or element of design installed on or in a motor vehicle or item of motor vehicle equipment in compliance with an applicable Federal motor vehicle safety standard, unless such manufacturer, distributor, dealer, or repair business reasonably believes that such vehicle or item of equipment will not be used (other than for testing or similar purposes in the course of maintenance or repair) during the time such device or element of design is rendered inoperative. For purposes of this paragraph, the term ‘motor vehicle repair business’ means any person who holds himself out to the public as in the business of repairing motor vehicles or motor vehicle equipment for compensation.

“(B) The Secretary may by regulation exempt any person from this paragraph if he determines that such exemption is consistent with motor vehicle safety and the purposes of this Act. The Secretary may prescribe regulations defining the term ‘render inoperative’.

“(C) This paragraph shall not apply with respect to the rendering inoperative of (i) any safety belt interlock (as defined in section 125(f)(1)) or (ii) any continuous buzzer (as defined in section 125(f)(4)) designed to indicate that safety belts are not in use.

“(D) Paragraph (1)(A) of this subsection shall not apply to the sale or offering for sale of any motor vehicle which has such a buzzer or interlock rendered inoperative by a dealer at the request of the first purchaser of such vehicle.”

(B) Subsection (b) of section 108 of such Act is amended by inserting “(A)” after “Paragraph (1)” in paragraphs (1), (2), and (5) of such subsection and by inserting “(A)” after “paragraph (1)” in paragraph (3) of such subsection.

(2) Section 108(a) of such Act (as amended by paragraph (1) of this subsection) is amended—

(A) by inserting after the semicolon in paragraph (1)(B) the following: “fail to keep specified records in accordance with such section; or fail or refuse to permit impounding, as required under section 112(a);” and

(B) by adding at the end of subsection (a) the following new subparagraph:

“(E) fail to comply with any rule, regulation, or order issued under section 112 or 114; and”

(3) Section 108(a)(1)(D) of such Act is amended to read as follows:

“(D) fail—

“(i) to furnish notification,

“(ii) to remedy any defect or failure to comply, or

“(iii) to maintain records,

as required by part B of this title; or fail to comply with any order or other requirement applicable to any manufacturer, distributor, or dealer pursuant to such part B;”

(b) PENALTIES.—Section 109 of such Act is amended by striking out “\$400,000” in the second sentence of such subsection (a) and inserting in lieu thereof “\$800,000”.

(c) INJUNCTIONS.—

(1) ~~The first sentence of section 110(a) of such Act is amended~~ (1) by inserting “(or rules, regulations or orders thereunder)” after “violations of this title”, and (2) by inserting immediately after “pursuant to this title,” the following: “or to contain a defect (A) which relates to motor vehicle safety and (B) with respect to which notification has been given under section 151 or has been required to be given under section 152(b).”

(2) The next to the last sentence of section 110(a) of such Act is amended by inserting before the period at the end thereof the following: “or to remedy the defect”.

SEC. 104. INSPECTION AND RECORDKEEPING.

(a) Subsections (a), (b), and (c) of section 112 of the National Traffic and Motor Vehicle Safety Act of 1966 are amended to read as follows:

“(a)(1) The Secretary is authorized to conduct any inspection or investigation—

“(A) which may be necessary to enforce this title or any rules, regulations, or orders issued thereunder, or

“(B) which relates to the facts, circumstances, conditions, and causes of any motor vehicle accident and which is for the purposes of carrying out his functions under this Act.

The Secretary shall furnish the Attorney General and, when appropriate, the Secretary of the Treasury any information obtained indicating noncompliance with this title or any rules, regulations, or orders issued thereunder, for appropriate action. In making investigations under subparagraph (B), the Secretary shall cooperate with appro-

priate State and local officials to the greatest extent possible consistent with the purposes of this subsection.

“(2) For purposes of carrying out paragraph (1), officers or employees duly designated by the Secretary, upon presenting appropriate credentials and written notice to the owner, operator, or agent in charge, are authorized at reasonable times and in a reasonable manner—

“(A) to enter (i) any factory, warehouse, or establishment in which motor vehicles or items of motor vehicle equipment are manufactured, or held for introduction into interstate commerce or are held for sale after such introduction, or (ii) any premises where a motor vehicle or item of motor vehicle equipment involved in a motor vehicle accident is located;

“(B) to impound for a period not to exceed 72 hours, any motor vehicle or item of motor vehicle equipment involved in a motor vehicle accident; and

“(C) to inspect any factory, warehouse, establishment, vehicle, or equipment referred to in subparagraph (A) or (B).

Each inspection under this paragraph shall be commenced and completed with reasonable promptness.

“(3) (A) Whenever, under the authority of paragraph (2) (B), the Secretary inspects or temporarily impounds for the purpose of inspection any motor vehicle (other than a vehicle subject to part II of the Interstate Commerce Act) or an item of motor vehicle equipment, he shall pay reasonable compensation to the owner of such vehicle to the extent that such inspection or impounding results in the denial of the use of the vehicle to its owner or in the reduction in value of the vehicle.

“(B) As used in this subsection, ‘motor vehicle accident’ means an occurrence associated with the maintenance, use, or operation of a motor vehicle or item of motor vehicle equipment in or as a result of which any person suffers death or personal injury, or in which there is property damage.

“(b) Every manufacturer of motor vehicles and motor vehicle equipment shall establish and maintain such records and every manufacturer, dealer, or distributor shall make such reports, as the Secretary may reasonably require to enable him to determine whether such manufacturer, dealer, or distributor has acted or is acting in compliance with this title or any rules, regulations, or orders issued thereunder and shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer, dealer, or distributor has acted or is acting in compliance with this title or any rules, regulations, or orders issued thereunder. Nothing in this subsection shall be construed as imposing recordkeeping requirements on distributors or dealers, except those requirements imposed under section 158 and regulations and orders promulgated thereunder.

“(c) (1) For the purpose of carrying out the provisions of this title, the Secretary, or on the authorization of the Secretary, any officer or employee of the Department of Transportation may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary, or such officer or employee, deems advisable.

“(2) In order to carry out the provisions of this title, the Secretary or his duly authorized agent shall at all reasonable times have access to, and for the purposes of examination the right to copy, any docu-

mentary evidence of any person having materials or information relevant to any function of the Secretary under this title.

“(3) The Secretary is authorized to require, by general or special orders, any person to file, in such form as the Secretary may prescribe, reports or answers in writing to specific questions relating to any function of the Secretary under this title. Such reports and answers shall be made under oath or otherwise, and shall be filed with the Secretary within such reasonable period as the Secretary may prescribe.

“(4) Any of the district courts of the United States within the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a subpoena or order of the Secretary or such officer or employee issued under paragraph (1) or paragraph (3) of this subsection, issue an order requiring compliance therewith; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

“(5) Witnesses summoned pursuant to this subsection shall be paid the same fees and mileage which are paid witnesses in the courts of the United States.

“(6) (A) The Secretary is authorized to request from any department, agency or instrumentality of the Federal Government such statistics, data, program reports, and other materials as he deems necessary to carry out his functions under this title; and each such department, agency, or instrumentality is authorized and directed to cooperate with the Secretary and to furnish such statistics, data, program reports, and other materials to the Department of Transportation upon request made by the Secretary. Nothing in this subparagraph shall be deemed to affect any provision of law limiting the authority of an agency, department, or instrumentality of the Federal Government to provide information to another agency, department, or instrumentality of the Federal Government.

“(B) The head of any Federal department, agency, or instrumentality is authorized to detail, on a reimbursable basis, any personnel of such department, agency, or instrumentality to assist in carrying out the duties of the Secretary under this title.”

(b) Section 112(e) of such Act is amended by striking out “All” and inserting in lieu thereof “Except as otherwise provided in section 158(a)(2) and section 113(b), all”; and striking out “subsection (b) or (c)” and inserting in lieu thereof “this title”.

SEC. 105. COST INFORMATION.

The National Traffic and Motor Vehicle Safety Act of 1966 (as amended by section 102) is further amended by inserting after section 112 the following:

“SEC. 113. (a) Whenever any manufacturer opposes an action of the Secretary under section 103, or under any other provision of this Act, on the ground of increased cost, the manufacturer shall submit such cost information (in such detail as the Secretary may by regulation or order prescribe) as may be necessary in order to properly evaluate the manufacturer’s statement. The Secretary shall thereafter promptly prepare an evaluation of such cost information.

“(b) (1) Subject to paragraph (2), such cost information together with the Secretary’s evaluation thereof, shall be available to the public. Notice of the availability of such information shall be published in the Federal Register.

“(2) If the manufacturer satisfies the Secretary that any portion of such information contains a trade secret or other confidential matter, such portion may be disclosed to the public only in such manner as to preserve the confidentiality of such trade secret or other confidential

matter, except that any such information may be disclosed to other officers or employees concerned with carrying out this title or when relevant in any proceeding under this title. Nothing in this subsection shall authorize the withholding of information by the Secretary or any officer or employee under his control, from the duly authorized committees of the Congress.

“(c) For purposes of this section, the term ‘cost information’ means information with respect to alleged cost increases resulting from action by the Secretary, in such form as to permit the public and the Secretary to make an informed judgment on the validity of the manufacturer’s statements. Such term includes both the manufacturer’s cost and the cost to retail purchasers.

“(d) The Secretary is authorized to establish rules and regulations prescribing forms and procedures for the submission of cost information under this section.

“(e) Nothing in this section shall be construed to restrict the authority of the Secretary to obtain, or require submission of, information under any other provision of this Act.”

SEC. 106. AGENCY RESPONSIBILITY.

The National Traffic and Motor Vehicle Safety Act of 1966 is amended by inserting after section 123 the following new section:

“SEC. 124. (a) Any interested person may file with the Secretary a petition requesting him (1) to commence a proceeding respecting the issuance of an order pursuant to section 103 or to commence a proceeding to determine whether to issue an order pursuant to section 152(b) of this Act.

“(b) Such petition shall set forth (1) facts which it is claimed establish that an order is necessary, and (2) a brief description of the substance of the order which it is claimed should be issued by the Secretary.

“(c) The Secretary may hold a public hearing or may conduct such investigation or proceeding as he deems appropriate in order to determine whether or not such petition should be granted.

“(d) Within 120 days after filing of a petition described in subsection (b), the Secretary shall either grant or deny the petition. If the Secretary grants such petition, he shall promptly commence the proceeding requested in the petition. If the Secretary denies such petition he shall publish in the Federal Register his reasons for such denial.

“(e) The remedies under this section shall be in addition to, and not in lieu of, other remedies provided by law.”

SEC. 107. NATIONAL MOTOR VEHICLE SAFETY ADVISORY COUNCIL.

(a) PUBLIC MEMBERS.—Section 104 of the National Traffic and Motor Vehicle Safety Act of 1966 is amended by inserting “(1)” after “Sec. 104. (a)”, and by adding the following new paragraph at the end of subsection (a):

“(2) For the purposes of this section, the term ‘representative of the general public’ means an individual who (A) is not in the employ of, or holding any official relation to any person who is (i) a manufacturer, dealer, or distributor, or (ii) a supplier of any manufacturer, dealer, or distributor, (B) does not own stock or bonds of substantial value in any person described in subparagraph (A) (i) or (ii), and (C) is not in any other manner directly or indirectly pecuniarily interested in such a person. The Secretary shall publish the names of the members of the Council annually and shall designate which members represent the general public. The Chairman of the Council shall be chosen by the Council from among the members representing the general public.”

(b) EXPIRATION.—Effective October 1, 1977, section 104 of such Act (as amended by subsection (a) of this section) is repealed.

SEC. 108. FUEL SYSTEM INTEGRITY STANDARD.

(a) RATIFICATION OF STANDARD.—Federal Motor Vehicle Safety Standard Number 301 (49 CFR 571.301-75; Docket No. 73-20, Notice 2) as published on March 21, 1974 (39 F.R. 10588-10590) shall take effect on the dates prescribed in such standard (as so published).

(b) AMENDMENT OR REPEAL OF STANDARD.—The Secretary may amend the standard described in subsection (a) in order to correct technical errors in the standard, and may amend or repeal such standard if he determines such amendment or repeal will not diminish the level of motor vehicle safety.

SEC. 109. OCCUPANT RESTRAINT SYSTEMS.

The National Traffic and Motor Vehicle Safety Act of 1966 is amended by inserting after section 124 the following new section:

“SEC. 125. (a) Not later than 60 days after the date of enactment of this section, the Secretary shall amend the Federal motor vehicle safety standard numbered 208 (49 CFR 571.208), so as to bring such standard into conformity with the requirements of paragraphs (1), (2), and (3) of subsection (b) of this section. Such amendment shall take effect not later than 120 days after the date of enactment of this section.

“(b) After the effective date of the amendment prescribed under subsection (a):

“(1) No Federal motor vehicle safety standard may—

“(A) have the effect of requiring, or

“(B) provide that a manufacturer is permitted to comply

with such standard by means of,

any continuous buzzer designed to indicate that safety belts are not in use, or any safety belt interlock system.

“(2) Except as otherwise provided in paragraph (3), no Federal motor vehicle safety standard respecting occupant restraint systems may—

“(A) have the effect of requiring, or

“(B) provide that a manufacturer is permitted to comply

with such standard by means of,

an occupant restraint system other than a belt system.

“(3) (A) Paragraph (2) shall not apply to a Federal motor vehicle safety standard which provides that a manufacturer is permitted to comply with such standard by equipping motor vehicles manufactured by him with either—

“(i) a belt system, or

“(ii) any other occupant restraint system specified in such

standard.

“(B) Paragraph (2) shall not apply to any Federal motor vehicle safety standard which the Secretary elects to promulgate in accordance with the procedure specified in subsection (c), unless it is disapproved by both Houses of Congress by concurrent resolution in accordance with subsection (d).

“(C) Paragraph (2) shall not apply to a Federal motor vehicle safety standard if at the time of promulgation of such standard (i) the 60-day period determined under subsection (d) has expired with respect to any previously promulgated standard which the Secretary has elected to promulgate in accordance with subsection (c), and (ii) both Houses of Congress have not by concurrent resolution within such period disapproved such previously promulgated standard.

“(c) The procedure referred to in subsection (b) (3) (B) and (C) in accordance with which the Secretary may elect to promulgate a standard is as follows:

“(1) The standard shall be promulgated in accordance with section 103 of this Act, subject to the other provisions of this subsection.

“(2) Section 553 of title 5, United States Code, shall apply to such standard; except that the Secretary shall afford interested persons an opportunity for oral as well as written presentation of data, views, or arguments. A transcript shall be kept of any oral presentation.

“(3) The chairmen and ranking minority members of the House Interstate and Foreign Commerce Committee and the Senate Commerce Committee shall be notified in writing of any proposed standard to which this section applies. Any Member of Congress may make an oral presentation of data, views, or arguments under paragraph (2).

“(4) Any standard promulgated pursuant to this subsection shall be transmitted to both Houses of Congress, on the same day and to each House while it is in session. In addition, such standard shall be transmitted to the chairmen and ranking minority members of the committees referred to in paragraph (3).

“(d) (1) A standard which the Secretary has elected to promulgate in accordance with subsection (c) shall not be effective if, during the first period of 60 calendar days of continuous session of Congress after the date of transmittal to Congress, both Houses of Congress pass a concurrent resolution the matter after the resolving clause of which reads as follows: ‘The Congress disapproves the Federal motor vehicle safety standard transmitted to Congress on _____, 19—.’; (the blank space being filled with date of transmittal of the standard to Congress). If both Houses do not pass such a resolution during such period, such standard shall not be effective until the expiration of such period (unless the standard specifies a later date).

“(2) For purposes of this section—

“(A) continuity of session of Congress is broken only by an adjournment sine die; and

“(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

“(e) This section shall not impair any right which any person may have to obtain judicial review of a Federal motor vehicle safety standard.

“(f) For purposes of this section:

“(1) The term ‘safety belt interlock’ means any system designed to prevent starting or operation of a motor vehicle if one or more occupants of such vehicle are not using safety belts.

“(2) The term ‘belt system’ means an occupant restraint system consisting of integrated lap and shoulder belts for front outboard occupants and lap belts for other occupants. With respect to (A) motor vehicles other than passenger vehicles, (B) convertibles, and (C) open-body type vehicles, such term also includes an occupant restraint system consisting of lap belts or lap belts combined with detachable shoulder belts.

“(3) The term ‘occupant restraint system’ means a system the principal purpose of which is to assure that occupants of a motor vehicle remain in their seats in the event of a collision or rollover. Such term does not include a warning device designed to indicate that seat belts are not in use.

“(4) The term ‘continuous buzzer’ means a buzzer other than a buzzer which operates only during the 8 second period after the ignition is turned to the ‘start’ or ‘on’ position.”

SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS.

(a) **DEFINITION OF SECRETARY.**—Section 102(10) of the National Traffic and Motor Vehicle Safety Act of 1966 is amended to read as follows:

“(10) ‘Secretary’ means the Secretary of Transportation.”

(b) **DATE OF ANNUAL REPORT.**—The first sentence of section 120(a) of the National Traffic and Motor Vehicle Safety Act of 1966 is amended by striking out “March 1” and inserting in lieu thereof “July 1”.

(c) **REGROOVED TIRES.**—Section 204(a) of such Act is amended to read as follows:

“(a) No person shall sell, offer for sale, or introduction for sale, or deliver for introduction in interstate commerce, any tire or motor vehicle equipped with any tire which has been regrooved, except that the Secretary may by order permit the sale, offer for sale, introduction for sale, or delivery for introduction in interstate commerce, of regrooved tires and motor vehicles equipped with regrooved tires which he finds are designed and constructed in a manner consistent with the purposes of this Act.”

SEC. 111. EFFECTIVE DATE.

The amendments made by this title (other than section 109) shall take effect on the sixtieth day after the date of enactment of this Act; except that section 108(a)(4)(D) of the National Traffic and Motor Vehicle Safety Act of 1966 (as added by section 103(a)(1)(A) of this Act) shall take effect on the date of enactment of this Act.

TITLE II—SCHOOLBUS SAFETY

SEC. 201. DEFINITIONS.

Section 102 of the National Traffic and Motor Vehicle Safety Act of 1966 is amended by adding at the end thereof the following:

“(14) ‘schoolbus’ means a passenger motor vehicle which is designed to carry more than 10 passengers in addition to the driver, and which the Secretary determines is likely to be significantly used for the purpose of transporting primary, preprimary, or secondary school students to or from such schools or events related to such schools; and

“(15) ‘schoolbus equipment’ means equipment designed primarily as a system, part, or component of a schoolbus, or any similar part or component manufactured or sold for replacement or improvement of such system, part, or component or as an accessory or addition to a schoolbus.”

SEC. 202. MANDATORY SCHOOLBUS STANDARDS.

Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 is amended by adding at the end thereof the following:

“(i) (1) (A) Not later than 6 months after the date of enactment of this subsection, the Secretary shall publish proposed Federal motor vehicle safety standards to be applicable to schoolbuses and schoolbus equipment. Such proposed standards shall include minimum standards for the following aspects of performance:

- “(i) Emergency exits.
- “(ii) Interior protection for occupants.
- “(iii) Floor strength.
- “(iv) Seating systems.
- “(v) Crash worthiness of body and frame (including protection against rollover hazards).
- “(vi) Vehicle operating systems.
- “(vii) Windows and windshields.
- “(viii) Fuel systems.

“(B) Not later than 15 months after the date of enactment of this subsection, the Secretary shall promulgate Federal motor vehicle safety standards which shall provide minimum standards for those aspects of performance set out in clauses (i) through (viii) of subparagraph (A) of this paragraph, and which shall apply to each schoolbus and item of schoolbus equipment which is manufactured in or imported into the United States on or after the expiration of the 9-month period which begins on the date of promulgation of such safety standards.

“(2) The Secretary may prescribe regulations requiring that any schoolbus be test-driven by the manufacturer before introduction into commerce.”

SEC. 203. ENFORCEMENT.

Section 108(a) (1) of the National Traffic and Motor Vehicle Safety Act of 1966 is amended by adding at the end thereof the following:

“(F) to fail to comply with regulations of the Secretary under section 103(i) (2).”

TITLE III—MOTOR VEHICLE DEMONSTRATION PROJECTS

SEC. 301. DEMONSTRATION PROJECTS.

(a) Title III of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1961 et seq.) is amended—

(1) by inserting after the heading for such title the following:

“PART A—STATE PROGRAMS”;

(2) by striking out “this title” wherever it appears in sections 301, 302, and 303 and inserting in lieu thereof “this part”;

(3) by redesignating section 304 as section 321; and

(4) by inserting after section 303 the following:

“PART B—SPECIAL DEMONSTRATION PROJECTS

“AUTHORITY TO ESTABLISH

“SEC. 311. The Secretary shall establish a special motor vehicle diagnostic inspection demonstration project to assist in the rapid development and evaluation of advanced inspection, analysis, and diagnostic equipment suitable for use by the States in standardized high volume inspection facilities and to evaluate the repair characteristics of motor vehicles. Such project shall be designed to facilitate evaluation of repair characteristics by small automotive repair garages.

“PART C—AUTHORIZATION OF APPROPRIATIONS”.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

October 17, 1974

Dear Mr. Director:

The following bills were received at the White House on October 17th:

S.J. Res. 236 ✓	S. 2840 ✓	H.R. 7768	H.R. 14225
S.J. Res. 250 ✓	S. 3007 ✓	H.R. 7780	H.R. 14597
S.J. Res. 251 ✓	S. 3234 ✓	H.R. 11221 ✓	H.R. 15148 ✓
S. 355 ✓	S. 3473 ✓	H.R. 11251 ✓	H.R. 15427 ✓
S. 605 ✓	S. 3698 ✓	H.R. 11452 ✓	H.R. 15540 ✓
S. 628 ✓	S. 3792 ✓	H.R. 11830 ✓	H.R. 15643 ✓
S. 1411 ✓	S. 3838 ✓	H.R. 12035 ✓	H.R. 16857 ✓
S. 1412 ✓	S. 3979 ✓	H.R. 12281 ✓	H.R. 17027 ✓
S. 1769 ✓	H.R. 6624 ✓	H.R. 13561 ✓	
S. 2348 ✓	H.R. 6642 ✓	H.R. 13631 ✓	

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C.