STATEMENT

OF

THE ALLIANCE OF AUTOMOBILE MANUFACTURERS

BEFORE THE:

COMMITTEE ON
COMMERCE, SCIENCE, AND TRANSPORTATION

MAY 19, 2010

PRESENTED BY:

The Honorable Dave McCurdy
President & CEO

Thank you Chairman Rockefeller, Ranking Member Hutchison, and members of the committee for inviting me to offer the Alliance's views on S. 3302, the *Motor Vehicle Safety Act of 2010*. The Alliance is committed to working constructively with the Congress on legislation that promotes the National Highway Traffic Safety Administration's (NHTSA) mission to "save lives, prevent injuries and reduce economic costs due to road traffic crashes." We appreciate the opportunity to share our views on how S. 3302 contributes to the overall safety of the driving public, as well as areas in which we believe the legislation could be improved.

Reassuring Consumers

There's been a lot of discussion on auto recalls in the past few months, so let me start by reassuring the American consumer.

Government data shows many advances in road safety. According to NHTSA, overall traffic fatalities reported at the end of 2009 reached the lowest level in 49 years, declining for the 15th consecutive quarter. This fact is remarkable given that the number of licensed drivers has more than doubled and annual vehicle miles travelled (VMT) have more than quadrupled since 1954.

Consumers are benefitting from a range of innovative new safety technologies. Because consumers want more safety features, automakers have developed many of today's significant safety innovations without a government mandate, including anti-lock brakes, electronic stability control (ESC), adaptive headlights, side airbags and curtains, front passenger safety belt reminder systems and advanced collision avoidance features like lane departure warning, blind spot monitors and adaptive cruise control.

Automobiles are complex, integrated systems that undergo years of rigorous testing and certification before they ever go on sale. Every auto innovation begins with an idea, but the real work is years of research, computer simulations, product development, laboratory testing, road testing, certification and more. Through the Society of Automotive Engineers (SAE), 14,000

mobility experts in 100+ countries have worked together to develop more than 2,600 globally recognized standards for motor vehicle transport.

Real-World Benefits

The industry continues to work to advance the state of the art in real world safety. Our engineers are always testing and developing new safety technologies, then evaluating their performance in real-world situations. Proposed legislation needs to meet the same test. Congress and all stakeholders should be focused first and foremost on passing a bill that will result in real-world safety benefits for Americans. This includes carefully weighing the potential costs of any regulation with the real world benefits consumers might expect. We believe that this legislation can advance safety through:

- Enhancing real-world expertise on the advanced technologies that enhance safety.
- Adopting consumer confidence measures, including more education on how cars work.
- Balancing proposals with consumer concerns and marketplace concerns.
- Adopting measures to help engineers, not trial lawyers.
- Fully funding data collection programs (e.g., NASS, FARS, NMVCCS, etc.,) to enable improved identification of real-world safety trends.

TITLE I. VEHICLE ELECTRONICS AND SAFETY STANDARDS

A number of rulemakings are mandated, many of them to be conducted concurrently according to unrealistic timelines. Some are overly prescriptive. Other rulemakings are simply unnecessary because they mandate standards already adopted by NHTSA. Still other mandates are premature.

To ensure that motor vehicle safety is enhanced, the Alliance has the following recommendations. In all instances, however, more reasonable timelines for rulemaking and especially for implementation are needed.

Rulemakings or Actions that should be pursued on a Priority Basis

Section 101. Electronics and Engineering Expertise. The Alliance supports Section 101 that establishes a Center for Vehicle Electronics and Emerging Technologies within NHTSA. We note that concerns over NHTSA's alleged lack of expertise with advanced vehicle technologies are in part unjustified considering the complex rulemakings the agency has completed in the last decade on numerous advanced vehicle technologies, including advanced airbags, electronic stability control, event data recorders and others. As the industry works to reinvent the automobile to make it safer, cleaner and more efficient, highlighting and promoting this area of expertise within the agency is welcomed.

Section 102. Vehicle Stopping Distance and Brake Override Standard. The Alliance supports the intent of Section 102, which would direct NHTSA to develop a rule requiring "brake override" technology for vehicles equipped with electronic throttle controls. A number of Alliance members already incorporate this technology into their vehicles and the others are moving in that direction. Alliance members recognize that safety is at the top of consumers' minds, and brake override technology will reassure them that they can count on their brakes in difficult situations. The Alliance recommends that this standard be written to amend FMVSS 135 and FMVSS 105, which already prescribe brake stopping distances.

The Alliance also notes that Section 102 (and Section 103) calls for the creation of standards that would "prevent" certain outcomes from happening. Such a requirement for the standard is beyond anything reasonable – or even possible in the real world. The Alliance recommends that the use of the word "prevent" in these two Sections be changed to the more typical requirement such as "reduce" or "mitigate."

Section 105. Keyless Ignition Systems Standard. The Alliance supports requiring that passenger vehicles with pushbutton ignition systems have a consistent means to shut off the engine. However, the Alliance is deeply troubled by the suggestion that the actual intent of this provision is to redesign the ignition systems of certain vehicles to perform non-stop/start-related functions, such as to shift the vehicle into neutral or de-power the accelerator without turning off

the engine. Such a radical departure from the current operation of these systems is questionable at best and may actually result in significant unintended consequences (such as in the case of an engine fire). At the very least, a change of this magnitude needs careful consideration by NHTSA, automakers and other stakeholders to ensure that all aspects of such a change are considered before they are required. If Congress believes this idea is worth pursuing, it should direct NHTSA to study potential options and report to Congress and the public on the potential benefits and trade-offs of such a redesign.

Section 107. Vehicle Event Data Recorders (EDR). The Alliance supports the intention of Section 107, which would require NHTSA to mandate installation of event data recorders on new vehicles; however, the Alliance is very concerned about and would oppose certain aspects of this provision. In 2006, NHTSA published a rule setting the parameters for EDRs voluntarily installed in vehicles. That comprehensive rule, in which certain technical details submitted by petition for reconsideration are still not resolved, was the result of a lengthy and complicated deliberation with substantial public comments.

Given that the existing rule has been scheduled for implementation in 2012, the Alliance recommends that the first phase of mandatory implementation should be consistent with the existing rule being implemented by NHTSA, including the resolution of pending petitions relating to technical issues and the effective date, to enable manufacturers who have implemented EDRs on parts of their fleet to come into full compliance. Equally important is the fact that manufacturers who opted not to install EDRs previously will need sufficient lead time, and certainly more than 2 years, to develop and implement this technology in their fleets. The law should not mandate lead times that may be unrealistic and NHTSA should have the authority to establish the lead time, including any phase-in schedule, after consultation with the manufacturers.

Specifications and requirements for EDRs, including those for data storage time, require analysis and consideration of available technology, feasibility, safety benefit and cost, should be left to NHTSA to study and decide whether to undertake further rulemaking and not specified in this legislation.

The Alliance also supports strong privacy protections for consumers. The Alliance believes that information stored on an EDR is the property of the vehicle owner and should not be accessed by anyone without the owner's permission or as required by law. Additionally, even with the owner's permission, data that is retrieved for the purpose of including in a publicly available database should be rendered anonymous by excluding at minimum the last six digits of the vehicle identification number (VIN) associated with the data. The bill should contain an exception for the transmission of EDR data to 9-1-1 call centers for purposes of emergency response.

With respect to the second phase of the EDR requirements, the Alliance believes that the provisions are extreme and would cost consumers thousands of dollars for the devices that would be required. For automakers to develop a device that is resistant to temperature, water and crashes and capable of continuously recording various pieces of data for 75+ seconds, we would need to create the equivalent of an airline "black box" for vehicles. This would be very expensive with no current demonstration of benefit.

A better approach would be to provide for a NHTSA study of the results of the first phase rulemaking as a prologue to any future enhancements to the rule.

Unnecessary Rulemakings

Section 103. Pedal Placement Standard. The Alliance recommends deleting Section 103, which would direct NHTSA to develop a rule specifying minimum clearances for passenger vehicle foot pedals with respect to other pedals, the vehicle floor, and any other potential obstruction to pedal movement. While perhaps well-intentioned, Section 103 would require NHTSA and auto manufacturers to spend valuable resources focusing on one aspect of a limited, past design problem that is unlikely to reoccur in the future given the recent attention. Implementing brake override technology as S. 3302 would accomplish is a better, more comprehensive solution to address concerns about unintended acceleration caused by pedal entrapment.

Section 106. Transmission Configuration. Section 106, which would direct NHTSA to prescribe a federal motor vehicle safety standard for passenger vehicles requiring an intuitive configuration and labeling of gear shifting controls that makes the neutral position conspicuous is unnecessary. Such a standard already exists. Federal Motor Vehicle Safety Standard No. 102, *"Transmission shift position sequence, starter interlock, and transmission braking effect,"* currently specifies the transmission shift position sequence to reduce the likelihood of shifting errors. The standard was among the first group of early standards issued by the agency and was last amended in 2005. Changing the shift configuration (as is suggested) potentially involves transmission re-designs that are very costly and require substantial lead time. As a result, any changes in shifting configuration will require far more than the one model year of lead time that is provided. Given that this standard has been in effect for a long time, changing the shift position sequence is unnecessary and ill-advised.

Rulemakings that Require Additional Study

Section 104. Electronic Systems Performance Standard. As the Committee is no doubt aware, NHTSA has contracted with the National Academy of Sciences (NAS) to examine the broad subject of unintended acceleration and electronic vehicle controls across the entire industry over the course of 15 months. The NAS will make recommendations to NHTSA on how its rulemaking, research, and defect investigations activities can help ensure the safety of electronic control systems in motor vehicles. In addition, NHTSA with the help of NASA is conducting its own review and investigation into the electronic systems that have been the focus of recent hearings. Both studies will be peer reviewed by scientific experts and the total cost for these studies will be approximately $3 million. Section 104 would require NHTSA to require electronic systems in passenger vehicles to meet minimum performance standards within 3 years of enactment. In this regard, S. 3302 presupposes the outcome of these reviews.

Auto manufacturers subject electronics systems in our vehicles to rigorous testing that is unparalleled in the consumer electronics sector. Auto systems are designed to last at least three to four times as long as standard consumer electronics and are subjected to much harsher extremes in testing. The Alliance supports the work on electromagnetic interference that is

ongoing at NHTSA and the National Academy of Sciences. The results of the NAS study should inform any future rulemaking that considers standards for electronic vehicle controls.

TITLE II. ENHANCED SAFETY AUTHORITIES

Section 201. Civil Penalties. The Alliance does not oppose an increase in the civil penalties, but the penalties must be capped at some reasonable level. Furthermore, the Alliance questions whether a five-fold increase in penalties is necessary. Only two years ago, this same committee visited this issue and set a $15 million-per-offense cap on penalties that could be assessed to manufacturers of other types of consumer products. Many of these manufacturers are as large as auto manufacturers, and auto manufacturers are already subject to civil penalties of up to $16.4 million per series of related violations. It is not clear to the Alliance why auto manufacturers should be singled out for disproportionate penalties relative to other consumer products manufacturers.

Section 202. Imminent Hazard Authority. Although Section 202 is captioned "Imminent Hazard Authority," it contains two separate provisions: the new imminent hazard authority in Section 202(a) and substantial changes to existing judicial review provisions in Section 202(b). If Congress concludes that an "imminent hazard" authority at NHTSA is desirable, both of these provisions must be rewritten to protect manufacturers' due process rights under the U.S. Constitution.

While there might be justification for expedited action on situations that create an "imminent hazard" to safety, the provision in Section 202(a) provides for no standard for judging what an "imminent hazard" might be. Current law provides for recalls when a defect presents an "immediate and substantial threat to motor vehicle safety," but those terms are not used in the bill, and the new terminology is not defined. Neither the Secretary nor the manufacturer would have the kind of guidance required under the U.S. Constitution on what situations might be subject to this authority. Worse yet, Section 202(a) provides no administrative hearing on an Imminent Hazard Order by the Secretary in a reasonable—or any—time, nor does it provide the manufacturer with the opportunity for a hearing before a fact-finding judge. General principles

of due process require a hearing of some sort within a reasonable time on such an administrative order or alternatively, a limitation on the duration of the order. For instance, the Consumer Products Safety Commission cannot get an imminent hazard order without first going to court; under the Federal Railroad Act, an order can only last 30 days before an administrative review hearing. Section 202(a) has no timeline for an administrative hearing. Under this legislation, the Secretary can order a stop sale of unlimited duration and the manufacturer is left with the sole remedy of going to the U.S. Court of Appeals, a process that can take up to two years. There is no administrative hearing, no judicial hearing before a fact-finding judge, and no expedited review. This and the lack of standards are serious due process concerns.

Due process generally requires that an aggrieved party be given notice and an opportunity for a hearing *before* the party is deprived of property. *See Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985) ("An essential principle of due process is that a deprivation of life, liberty, or property be preceded by notice and opportunity for hearing appropriate to the nature of the case." (internal quotation omitted)).

"The opportunity to present reasons, either in person or in writing, why proposed action should not be taken is a fundamental due process requirement." *Loudermill*, 470 U.S. at 546. It is a "'root requirement' of the Due Process Clause" that the entity "'be given an opportunity for a hearing *before* [it] is deprived of any significant property interest.'" *Id.*, 470 U.S. at 542 (quoting *Boddie v. Connecticut*, 401 U.S. 371, 379 (1971)); *see also Zinermon v. Burch*, 494 U.S. 113, 127 (1990). The lack of adequate process is particularly troubling where there exist no "additional procedural safeguards" to protect the interests of aggrieved parties. *Matthews v. Eldridge*, 424 U.S. 319, 343 (1976).

Section 202(b) goes beyond the section's caption and also amends the existing statutory process by which a manufacturer obtains judicial review of an order to recall vehicles (without regard to imminent hazards). Under current law, a manufacturer contesting a mandatory recall order is entitled to a de novo trial in district court in which NHTSA has the burden of proof to establish the presence of a safety-related defect. *U.S. v. General Motors Corp*., 518 F.2d 420, 438 (D.C. Cir. 1975). The draft bill would appear to substitute appellate review of any recall

order for district court review. Appellate review, which is usually deferential to the finder of fact—whether a district court or an agency that has held an enforcement hearing—is inappropriate where, as under Section 202(b), there has been no hearing on the facts and no provision for a fact-finding judge to make an initial decision. Under this scenario, the manufacturer would never get due process of law to establish the record in a neutral forum. The manufacturer should have the opportunity to develop a record and defend itself in District Court. S. 3302 as introduced deprives the manufacturers of due process.

Finally, the imminent hazard provisions, as currently drafted, significantly expand the powers of the Secretary to affect manufacturers' businesses without actually offering any additional safety benefits. NHTSA may order the manufacturer to stop production, sale, offer for sale, lease, offer for lease, distribution, the introduction or delivery for introduction in interstate commerce, or importation into the United States. The current "stop sale" provision in the Safety Act already prohibits the delivery to a customer of any vehicle until the safety defect has been remedied. As long as the defect is remedied prior to the vehicle getting into customers' hands, there is no added safety benefit gained by stopping production, importation or halting distribution to dealerships. Halting distribution unnecessarily prevents manufacturers from utilizing the most efficient method for fixing defects in vehicles – the dealer body.

TITLE III. TRANSPARENCY AND ACCOUNTABILITY

Section 301. Public Availability of Early Warning Data. Section 301 expands the coverage of the "early warning reporting" program to include several categories of data that are already being collected by NHTSA under the "early warning reporting" regulations. For example, NHTSA's rule already requires manufacturers to report on customer complaints, warranty claims, and field reports under the "early warning reporting" program, and NHTSA found that it had ample authority to require this information under the existing law. Accordingly, it is unclear why this provision is needed.

Section 301 would replace the current "disclosure" provision of Section 30166 of Title 49 with a new provision that appears to compel release of all early warning information "provided to the Secretary pursuant to this subsection" unless the information is exempt from disclosure under the Freedom of Information Act (FOIA). The legislation directs NHTSA to undertake rulemaking "establishing categories of information provided to the Secretary pursuant to this subsection that must be made available to the public," and authorizes NHTSA to "establish categories of information that may be withheld from public disclosure under paragraphs (4) and (6)" of FOIA. The Section goes on, however, to ***require*** disclosure of consumer complaint aggregated data, without regard to whether it might qualify for exemption from disclosure under the FOIA , and repeals NHTSA's existing regulation establishing categories of early warning information that the agency determined to be eligible for withholding from disclosure under paragraph (4) and (6) of the FOIA.

As NHTSA has already done much of what this provision directs namely, considered which categories of early warning information are entitled to exemption from disclosure under FOIA through an extensive rulemaking proceeding that was reviewed and upheld by the courts it is unclear what benefit is served by repealing the outcome of that effort in its totality and directing NHTSA to do it all over again. A simple direction to NHTSA to review the existing regulation and make appropriate changes resulting from the review would seem to accomplish the same purpose.

As to the new direction to "establish categories" of information "that must be made available to the public," the Alliance respectfully suggests that this provision misunderstands the FOIA process and the protection it affords to trade secrets and confidential business information. While the courts have upheld (and, indeed, encouraged) agencies to establish categories of ***exempt*** information under FOIA to help manage the administrative burdens of FOIA, we know of no such process for creating categories of information that "must be made available to the public," nor do we believe that such direction is authorized under FOIA and the case law that has evolved around the processes for protecting confidential business information (so-called "Reverse FOIA cases"). A submitter of confidential business information to the government is entitled to have that information reviewed and considered for withholding from public disclosure

under FOIA standards, and that right cannot be taken away by the administrative creation by NHTSA of "categories" of information that must be disclosed. By contrast, the courts have encouraged agencies to create "categories" of exempt information to ease the practical problems of reviewing and passing on multiple requests for confidential treatment by numerous submitters, when those submissions are likely to be repetitive and where most such requests are likely to be granted.

Since TREAD was enacted in 2000, NHTSA has applied FOIA standards to evaluate the confidentiality of early warning reports, and their evaluations have been upheld by the reviewing courts. As Section 301 continues to provide for the application of FOIA standards to these data, but simultaneously calls for the creation of "categories" of information to be disclosed, the Alliance believes that this provision raises serious questions about the consistency of the provision with the FOIA itself and the rights of submitters of confidential information to the government.

Section 302. Improved NHTSA Vehicle Safety Database. The Alliance supports Section 302, which would provide for improvements in NHTSA's Vehicle Safety Database. We have long advocated for increased funding for NHTSA's National Automotive Sampling Survey. More resources to sample more cases will aid the agency and the manufacturers in developing appropriate vehicle safety countermeasures. In addition, Alliance members think the marketplace and consumers will be well-served by an improved safercar.gov website. There is a bountiful supply of information currently available to the Agency and the public, but unfortunately it is not shared with consumers in a way that can be most helpful to them.

Section 304. Promotion of Vehicle Defect Reporting. The Alliance does not object to Section 304; however, we note that the requirement to affix a notice somewhere inside a vehicle is redundant. Such information is already required to be included in the vehicle's owner's manual. It is not clear why Congress believes that an owner who believes he/she has a defective vehicle would consult his/her glove compartment, but not check his/her owner's manual. One place should be sufficient – the owners' manual is already required, and already instructs consumers how to lodge a complaint.

Section 305. NHTSA Hotline for Manufacturer, Dealer, and Mechanic Personnel. The Alliance does not object to Section 305; however, we note that such a hotline is redundant to the similar hotline NHTSA is required to maintain for the general public. It is unclear what public benefit is served by requiring NHTSA to spend resources to maintain a separate hotline for employees of manufacturers, suppliers, dealers, and other repair facilities.

Section 307. Corporate Responsibility for NHTSA Reports. The Alliance has serious concerns about Section 307, which imposes personal liability up to $250,000,000 on the "principal executive officer" but does not define the term or provide any means for determining who that person may be. The responsibility to review the submission and, based on the officer's knowledge, confirm the detailed accuracy of the submission fails to understand or recognize that many submissions (because of the breadth of the agency's requests and the complexity of many of the investigations) are assembled by dozens of company employees working together who must review thousands and thousands of records. Even if it was feasible to require a single person to have requisite knowledge after review of an entire submission, including the thousands and thousands of records and judgments of the many people assembling the submissions, it would not be possible to make the kind of affirmations required under this proposal. Furthermore, the inequity among manufacturers of who may be impacted by this provision could be substantial. The "principal executive officer residing in the U.S." is likely to be far different for companies headquartered in the U.S. than those that are headquartered in other countries. In addition, this responsibility to certify reports applies to information provided in response to a "preliminary safety investigation, or in response to an official safety investigation." These terms are not currently used by the agency and are also not defined in Section 307. In addition, $250,000,000 in personal liability is both unreasonable and disproportionate to the matter at hand. Even the Sarbanes-Oxley Act of 2002, upon which this provision seems to be based, caps liability at $5,000,000. This provision needs significant modification to address these issues.

In addition, to the extent that Section 307, or any other provision of new legislation, would establish requirements regarding the review, analysis, or confirmation of data in such a way as to require such work to be performed in the U.S. to allow an official in the U.S. to make a certification, such a requirement would violate important international obligations. Requiring

U.S.-based recall decision-making would also encourage other countries around the world to impose the same unnecessary burdens, significantly increasing the cost of doing business for all automakers.

Indeed, since NHTSA statutory and regulatory authority allows a manufacturer to rely on foreign engineering and testing to certify compliance at the time of sale, it is inherently inconsistent not to recognize and allow the same review, analysis, or confirmation to be used for responding to a defect investigation. Particularly at a time when more and more of the auto industry is developing worldwide research, development, sourcing and construction processes for new vehicles, any requirement forcing duplication of activities such in the U.S. is counterproductive.

Section 308. Anti-revolving Door. The restrictions contained in Section 308 go far beyond the current ethics restrictions on former federal employees. This section would impose greater employment restrictions on NHTSA employees, regardless of level, than are currently placed on cabinet level appointees or members of Congress. Perhaps the concerns addressed in this section could more appropriately be addressed through amendments to the general ethics laws.

TITLE IV. FUNDING

Section 401. Authorization of Appropriations. The Alliance supports Section 401, which would increase authorized funding for NHTSA's vehicle safety programs. The Alliance agrees that NHTSA should have resources sufficient to accomplish its important mission. The Alliance further urges Congress to set aside some of the proposed increase to fund the National Automobile Sampling System (NASS) at a level sufficient to provide the statistically valid, nationally representative sample originally intended. The need for quality sources of data continues to grow as automakers reinvent the automobile in response to societal demands for ever safer and cleaner vehicles. Starved for funds, the capability of NASS has been dramatically reduced. Currently, NASS collects in-depth data on approximately 4,500 crashes, less than a third of the intended design size of 15,000 to 20,000 crash cases annually. A $40 million dollar annual investment in NASS equates to 1.73 cents for every $100 of economic loss.

The Alliance also urges Congress to set aside some of the proposed increase to fund the research and development of vehicle technologies to end drunk driving, i.e., the Driver Alcohol Detection System for Safety (DADSS) research program. According to the Insurance Institute for Highway Safety (IIHS), DADSS has the potential to save more than 8,000 lives per year, a substantial portion of the nearly 12,000 fatalities that occur each year because of drunk drivers.

PROVISIONS IN THE HOUSE DISCUSSION DRAFT NOT INCLUDED IN S. 3302

Judicial Review of Defect Petition Rejections. The Alliance commends the Senate for not including Section 306 of the House draft, which would allow for judicial review of defect petition rejections. This section seeks to reverse established law by overturning a twenty-two year old case, *Center for Auto Safety v. Dole*, 846 F.2d 1532 (D.C. Cir. 1988). Here is the important passage from the decision:

> While safety is an indispensable element of the decision not to investigate, NHTSA can and does consider such "non-safety" factors as its available resources, enforcement priorities, the likelihood of uncovering sufficient evidence to establish the existence of a defect, and the prospect of ultimately succeeding in any necessary enforcement litigation. The regulation *sub judice* provides the court no way to second-guess the weight or priority to be assigned these elements. In particular, it would be unwise, and inconsistent with the broad mandate of the agency under the governing statute, to infer a mandatory allocation of the agency's limited resources from the regulation at issue. We must thus conclude that NHTSA's decision governed by this regulation is not reviewable.

It is no more appropriate now than it was in 1988 to mandate that the Agency with the greatest expertise to evaluate such decisions and the companies that will be affected by these judicial reviews be forced to defend past decisions rather than to pursue other potentially more safety-promoting activities such as advancing the work on other open investigations. Rather it creates an environment of "regulation by litigation" which will not serve the agency, the industry

or the public well. It is inconsistent to assert that the agency needs more resources and more expert staff to undertake its safety mission and in the same breath assert that a non-expert court is better able to make these decisions than NHTSA. This proposal will contribute to clogging the court system and it will waste important agency resources. If every petition denial is subject to judicial review, NHTSA will be forced to spend substantially more resources in responding to each petition, regardless of its merit, and to be prepared for the anticipated judicial review. That, in turn, is likely to lead NHTSA to create much more stringent petitioning thresholds so that the agency must only respond to very well supported petitions with substantial technical analyses of multiple events. Finally, this provision would not have changed the outcome of the unintended acceleration investigations. The results of a successful appeal would simply be for the agency to open an investigation, which it did numerous times in the recent case.

Vehicle Safety User Fee. Alliance members are not in favor of including a new open ended fee on the cost of each new vehicle. Indeed we are sensitive to the cumulative impact of increased vehicle costs on consumers, especially in the current economic downturn. It is important to bear in mind the larger context of regulatory factors impacting vehicle costs. Only last month, the Administration finalized new fuel economy and greenhouse gas standards for automobiles, which the Alliance supported. The new standards will provide significant energy security and environmental benefits, but they will also increase the price of a new car by hundreds of dollars over the next several years. Additionally, NHTSA recently finished or is still working on – vehicle rulemakings that are projected by the agency to increase the price of a car by an additional $428 to $813. Finally, each of the new technology mandates in this proposal will also have some associated cost for consumers. Vehicle owners are not the only ones who benefit from the efforts of NHTSA. Highway safety is a national priority – promoting reductions in health care costs associated with accidents and protecting pedestrians as well as vehicle owners. This national purpose is particularly well suited to the general appropriations process which is better suited to fund programs providing a general benefit to the public.

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