

AMENDMENT NO. _____ Calendar No. _____

Purpose: To designate certain conduct by car and truck rental companies relating to motor vehicle safety defects and recalls as unfair and deceptive acts or practices to be regulated by the National Highway Transportation Safety Administration.

IN THE SENATE OF THE UNITED STATES—112th Cong., 1st Sess.

S. 1449

To authorize the appropriation of funds for highway safety programs and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mrs. BOXER

Viz:

1 On page 77, after line 21, insert the following:

2 **SEC. 212. SAFETY OF RENTAL MOTOR VEHICLES.**

3 (a) AMENDMENT.—

4 (1) IN GENERAL.—Subchapter II of chapter
5 301 is amended by adding at the end the following:

6 **“§ 30129. Prohibition on rental and sale of recalled
7 motor vehicles**

8 “(a) DEFINITIONS.—In this section:

9 “(1) COVERED VEHICLE.—The term ‘covered
10 vehicle’ means a motor vehicle that—

1 “(A) is rated at 26,000 pounds gross vehi-
2 cle weight or less;

3 “(B) is rented without a driver; and

4 “(C) is part of a motor vehicle fleet of 5
5 or more motor vehicles that is used for rental
6 purposes by a rental company.

7 “(2) RENTAL COMPANY.—The term ‘rental
8 company’ means a person who—

9 “(A) is engaged in the business of renting
10 covered vehicles; and

11 “(B) uses for rental purposes a motor ve-
12 hicle fleet of 5 or more covered vehicles.

13 “(b) PROHIBITION.—

14 “(1) IN GENERAL.—Except as provided in para-
15 graph (2), it shall be unlawful for a rental company
16 to rent or sell a covered vehicle on or after the ear-
17 lier of the date of receipt by the rental company of
18 a notification ordered by the Secretary of Transpor-
19 tation under section 30118(b)(2)(A), or the date of
20 receipt by the rental company of a notification from
21 a manufacturer pursuant to section 30118(c) that
22 the covered vehicle contains a defect related to
23 motor vehicle safety or does not comply with an ap-
24 plicable motor vehicle safety standard, unless—

1 “(A) the defect or noncompliance has been
2 remedied prior to rental or sale; or

3 “(B) in the case of a notification stating
4 that a remedy is not yet available, the rental
5 company has taken action as instructed in the
6 notification prior to rental or sale.

7 “(2) EXCEPTION.—Paragraph (1) shall not
8 apply to a notification ordered by the Secretary
9 under section 30118(b)(2)(A) if enforcement of the
10 order is set aside or exempted pursuant to section
11 30121(d).

12 “(c) NOTIFICATION DURING RENTAL.—If, during a
13 rental period of a covered vehicle, a rental company re-
14 ceives a notification pursuant to subsection (b)(2)(A) or
15 (c) of section 30118 that the covered vehicle contains a
16 defect related to motor vehicle safety or does not comply
17 with an applicable motor vehicle safety standard, the rent-
18 al company shall, not later than 24 hours after the rental
19 company receives such notification—

20 “(1) contact the renter and any authorized driv-
21 er for whom the rental company has immediate con-
22 tact information to inform such renter and author-
23 ized driver of the defect or noncompliance; and

1 “(2) offer to provide such renter or authorized
2 driver a comparable alternative vehicle, at no addi-
3 tional cost to the renter or authorized driver, until—

4 “(A) the defect or noncompliance has been
5 remedied; or

6 “(B) in the case of a notification stating
7 that a remedy is not yet available, the rental
8 company has taken action as instructed in the
9 notification prior to rental or sale.

10 “(d) DATE OF RECEIPT OF A NOTIFICATION.—For
11 purposes of subsections (b)(1) and (c), a rental company
12 shall be considered to have received a notification de-
13 scribed in such subsections on the earlier of—

14 “(1) the date on which the notification was re-
15 ceived; or

16 “(2) the date that is 5 business days after the
17 date on which such notification was mailed.”.

18 (2) CLERICAL AMENDMENT.—The chapter anal-
19 ysis for such chapter is amended by inserting after
20 the item relating to section 30128 the following:

“30129. Prohibition on rental and sale of recalled motor vehicles.”.

21 (b) ACTIONS BY THE ATTORNEY GENERAL.—Section
22 30163(a) of title 49, United States Code, is amended—

23 (1) in paragraph (1), by striking “and” at the
24 end;

1 (2) in paragraph (2), by striking the period at
2 the end and inserting “; and”; and

3 (3) by adding at the end the following:

4 “(3) the rental or sale of a recalled rental
5 motor vehicle if such rental or sale would violate sec-
6 tion 30129.”.

7 (c) CIVIL PENALTY.—Section 30165(a)(1) of title 49,
8 United States Code, is amended by inserting “30129,”
9 after “30127,”.

10 (d) ACTION BY OTHER FEDERAL OR STATE OFFI-
11 CIALS.—

12 (1) ENFORCEMENT BY FEDERAL TRADE COM-
13 MISSION.—

14 (A) IN GENERAL.—A violation of section
15 30129 of title 49, United States Code—

16 (i) shall be treated as a violation of a
17 rule under section 18 of the Federal Trade
18 Commission Act (15 U.S.C. 57a) regarding
19 unfair or deceptive acts or practices; and

20 (ii) shall be enforced by the Federal
21 Trade Commission in the same manner, by
22 the same means, and with the same juris-
23 diction, powers, and duties as though all
24 applicable terms and provisions of the Fed-
25 eral Trade Commission Act (15 U.S.C. 41

1 et seq.) were incorporated into and make a
2 part of such section.

3 (B) PENALTIES.—Any person who violates
4 section 30129 of title 49, United States Code
5 shall be subject to the penalties and entitled to
6 the privileges and immunities provided in the
7 Federal Trade Commission Act as though all
8 applicable terms and provisions of the Federal
9 Trade Commission Act were incorporated in
10 and made part of such section.

11 (C) AUTHORITY PRESERVED.—Nothing in
12 this paragraph may be construed to limit the
13 authority of the Federal Trade Commission
14 under any other provision of law.

15 (D) LIMITATION.—A separate suit may
16 not be brought under this paragraph if, at the
17 time the suit is brought, the same alleged viola-
18 tion is the subject of a pending action by the
19 Department of Transportation or the United
20 States under section 30129 of title 49, United
21 States Code.

22 (2) CONSTRUCTION.—Nothing in this sub-
23 section may be construed—

1 (A) to prohibit an individual from seeking
2 any remedies available under any provision of
3 Federal or State law; or

4 (B) to prevent or prohibit the attorney
5 general of a State, or other authorized State of-
6 ficer, from—

7 (i) exercising the powers conferred on
8 the attorney general, or other authorized
9 State officer, by the laws of such State; or

10 (ii) proceeding in Federal or State
11 court on the basis of an alleged violation of
12 any civil or criminal statute of that State.

13 (e) REPORT ON SALES OF MOTOR VEHICLES TO
14 RENTAL COMPANIES WITHOUT STANDARD SAFETY FEA-
15 TURES.—

16 (1) IN GENERAL.—Not later than 180 days
17 after the date of the enactment of this Act, the Ad-
18 ministrator of the National Highway Traffic Safety
19 Administration shall submit a report to Congress
20 that includes all matters relating to the sales of
21 motor vehicles to rental companies without safety
22 features that are normally included in the sales of
23 such motor vehicles to consumers.

24 (2) ELEMENTS.—The report submitted under
25 subsection (a) shall include—

1 (A) a description of the buying practices of
2 rental companies with respect to motor vehicles
3 that do not include safety features that are nor-
4 mally included in the sale of such motor vehi-
5 cles to consumers;

6 (B) a description of the implications of
7 such practices on the safety of consumers; and

8 (C) the recommendations of the Adminis-
9 trator with respect to the regulatory and legis-
10 lative actions that could be taken to protect
11 consumers with respect to such practices.

12 (f) REPORT ON SALES OF MOTOR VEHICLES BY
13 RENTAL COMPANIES KNOWN TO INCLUDE SAFETY DE-
14 FECTS BEFORE SUCH VEHICLES ARE RECALLED.—

15 (1) INITIAL REPORT.—Not later than 180 days
16 after the date of the enactment of this Act, the Ad-
17 ministrator of the National Highway Traffic Safety
18 Administration shall submit a report to Congress re-
19 garding the sale of covered vehicles (as defined in
20 section 30129(a)(1) of title 49, United States
21 Code)—

22 (A) by rental companies that are aware,
23 including by notice posted on the Internet
24 website of the Administration, that such cov-
25 ered vehicles—

1 (i) may contain a defect related to
2 motor vehicle safety; or

3 (ii) may not be in compliance with an
4 applicable motor vehicle safety standard;
5 and

6 (B) during the period—

7 (i) beginning on the date on which
8 such rental companies become aware of the
9 situation described in subparagraph (A);
10 and

11 (ii) ending on the earlier of—

12 (I) the date on which the rental
13 company receives a notification or-
14 dered by the Secretary of Transpor-
15 tation under subsection (b)(2)(A) of
16 section 30118 of title 49, United
17 States Code; and

18 (II) the date on which a manu-
19 facturer gives notice to owners, pur-
20 chasers, and dealers pursuant to sub-
21 section (c) of such section that such
22 covered vehicles contain a defect re-
23 lated to motor vehicle safety or do not
24 comply with an applicable motor vehi-
25 cle safety standard.

1 (2) ELEMENTS.—The report submitted under
2 paragraph (1) shall include—

3 (A) a description and analysis of the fre-
4 quency of sales of covered vehicles described in
5 such paragraph;

6 (B) a discussion of the effects of such sales
7 on consumers; and

8 (C) the Administrator’s recommendations,
9 if any, on legislative and administrative action
10 that should be taken to address such sales or
11 to mitigate such effects.

12 (3) FOLLOW-UP REPORT.—

13 (A) IN GENERAL.—Not later than 1 year
14 after the date on which the Administrator sub-
15 mits the report under paragraph (1), the Ad-
16 ministrator shall submit a report to Congress
17 regarding the sales of covered vehicles described
18 in such subsection during the period beginning
19 on the date on which the Administrator submits
20 the report required under such subsection and
21 ending on the date on which the report is sub-
22 mitted under this paragraph.

23 (B) ELEMENTS.—The report submitted
24 under subparagraph (A) shall include—

1 (i) the elements described in para-
2 graph (2) with respect to the period de-
3 scribed in subparagraph (A);

4 (ii) an identification and analysis of
5 the differences between the findings of the
6 Administrator in the report submitted
7 under paragraph (1) and the findings of
8 the Administrator in the report submitted
9 under this paragraph; and

10 (iii) a discussion of the effects of the
11 provisions of section 30129 of title 49,
12 United States Code, on the sales of covered
13 vehicles described in paragraph (1).

14 (g) EFFECTIVE DATE.—This section shall take effect
15 on the date that is 60 days after the date of the enactment
16 of this Act.