

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

NEAL R. GROSS & CO., INC.

RPTS PATERSON

HIF294170

EXAMINING WAYS TO IMPROVE

VEHICLE AND ROADWAY SAFETY

WEDNESDAY, OCTOBER 21, 2015

House of Representatives

Subcommittee on Commerce, Manufacturing,

and Trade

Committee on Energy and Commerce

Washington, D.C.

The subcommittee met, pursuant to call, at 10:03 a.m., in Room 2123 Rayburn House Office Building, Hon. Michael Burgess [chairman of the subcommittee] presiding.

Members present: Representatives Burgess, Lance, Blackburn, Guthrie, Olson, Bilirakis, Brooks, Upton (ex officio), Schakowsky, Kennedy, Cardenas, Butterfield, Welch, and Pallone (ex officio).

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Also present: Representative Capps.

Staff present: Leighton Brown, Press Assistant; James Decker, Policy Coordinator, Commerce, Manufacturing, and Trade; Andy Duberstein, Deputy Press Secretary; Graham Dufault, Counsel, Commerce, Manufacturing, and Trade; Melissa Froelich, Counsel, Commerce, Manufacturing, and Trade; Paul Nagle, Chief Counsel, Commerce, Manufacturing, and Trade; Olivia Trusty, Professional Staff, Commerce, Manufacturing, and Trade; Dylan Vorbach, Legislative Clerk, Commerce, Manufacturing, and Trade; Michelle Ash, Chief Counsel, Commerce, Manufacturing, and Trade; Jeff Carroll, Staff Director; Lisa Goldman, Counsel; Rick Kessler, Senior Advisor and Staff Director, Energy and Environment; and Josh Lewis, EPA Detailee.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Burgess. The committee will come to order. And good morning. I want to welcome everyone to our hearing today on Examining Ways to Improve Vehicle and Roadway Safety.

I will recognize myself for 5 minutes for the purpose of an opening statement.

Certainly, lives depend on the safety of cars, safety of trucks, and on the roads themselves in the United States. And on the whole, the data is good around the decrease in fatalities against miles driven. But the hearings over the last 2 years have certainly underlined the severity of problems that do exist, and there is no room for going slow when it comes to safety. And certainly, deception cannot and will not be tolerated.

So it is incumbent upon us in the Congress, us on the committee, the National Highway Traffic Safety Administration, vehicle manufacturers, and others in the automotive industry to ensure absolute compliance with current federal motor vehicle safety standards and processes. Lives depend on it.

It is also our responsibility to revisit the adequacy of safety standards and the processes that determine whether they provide sufficient protections to our nation's motorists. This past year, I think it has been clear to many of us on the committee and certainly clear to me that this is not always the case and that there is room for improvement.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

To that end, the discussion draft that we will examine today includes modifications to certain federal motor vehicle safety standards and their processes that will enhance safety practices amongst automakers, the National Highway Traffic Safety Administration itself, and provide more information to motorists and consumers about vehicle safety, and foster the development of new automotive technologies that will save lives.

Some of these modifications include updating how the National Highway Traffic Safety Administration publicizes and makes recall information available to consumers. The discussion draft will address how NHTSA coordinates with automakers before publicizing recall notices to consumers as well. These changes are intended to improve overall recall awareness by providing drivers with more complete information about a safety recall, and giving them the means to take immediate action to get their vehicles fixed once the defect notice is received.

The discussion draft also contains proposals intended to improve how the National Highway Traffic Safety Administration collects and analyzes vehicle safety information, and directs the agency to research the lifesaving potential of crashworthiness features that could provide additional protections to the driving public.

To increase accountability and improve safety practices

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

amongst vehicle manufacturers, the discussion draft extends their remedy and their repair obligations under recalls, and increases the time that they must maintain safety records to facilitate the identification of potential defects, and institutes safety incentives that encourage investment into next-generation safety technologies.

After a record year for recalls, the draft we will examine today also discusses roadway safety, vehicle safety, and is a continuation of this subcommittee's efforts to restore confidence in American motorists that the cars that they are driving are safe, that the recall process works, and that automakers and the National Highway Traffic Safety Administration are capable of keeping pace with the technology and the complexity of cars of the future.

I certainly want to thank all of our witnesses for their testimonies. I look forward to an engaging and lively discussion on these issues as we seek to improve auto safety, save more lives, and ultimately benefit the driving public.

With that, I will yield back the balance of my time and recognize the ranking member of the subcommittee, Ms. Schakowsky, 5 minutes for the purpose of an opening statement, please.

[The discussion draft of the proposed Bill follows:]

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

\*\*\*\*\* INSERT 1 \*\*\*\*\*

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Ms. Schakowsky. Thank you, Mr. Chairman, for holding today's hearing on a legislative effort to enhance auto safety and improve the recall process.

I would like to mention at the outset that I think it is a mistake to hold this hearing without a non-government data security witness. This draft legislation includes provisions related to privacy and data protection, and it would benefit all of us to better understand the implication of those provisions.

I would also like to mention that victims of the GM ignition switch failure are here today in the audience. It has been 20 months since the initial GM recall, and you would think this committee would have acted sooner. As we see again today with the Toyota recall of 6.5 million vehicles, these safety issues aren't going away.

As a sponsor of legislation to achieve the goals this bill attempts to address, I am happy we are finally having a legislative hearing. Unfortunately, I believe we are having it on the wrong bill. This discussion draft includes some ideas from H.R. 1181, the Vehicle Safety Improvement Act, the bill I introduced with Ranking Member Pallone and five other members of the subcommittee in March. Those policies include requirements that NHTSA undergo a rulemaking to improve rear crashworthiness, and that every automaker has a U.S.-based senior executive responsible for

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

certifying the accuracy and completeness of all responses to NHTSA's request for information relating to safety investigations.

And I am glad those provisions were included, but it would have been much better and more useful for the majority to have engaged in a bipartisan consultation during the drafting of this bill, as I have repeatedly asked, rather than dumping this bill in our laps. Had that dialogue taken place, many of the weaknesses in the bill could have been addressed prior to this hearing.

The Vehicle Safety Improvement Act includes several provisions that would enhance safety and improve the efficacy of recalls, none of which are included in this draft legislation. The VSIA would more than double NHTSA's funding for vehicle safety programs. This bill provides no explicit additional funding for the agency. The VSIA would increase the quantity and quality of information shared by automakers with NHTSA, the public, and Congress.

While there is a nod to those priorities in this draft legislation, there is little meaningful change from the status quo. The bill would require manufacturers to fix all recalled vehicles free of charge rather than just those that were purchased within the past 10 years. This discussion draft would not.



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Under VSIA, NHTSA would have new imminent hazard authority to expedite recalls related to dangerous defects that would eliminate the regional recall program ensuring that all cars subject to a recall are repaired regardless of their location. Neither of those changes are part of this discussion draft.

But beyond those missteps, the Republican draft legislation takes egregious steps in the wrong direction. To take one example, the bill would give automakers a break from health-based carbon emissions requirements in exchange for adding safety features that are readily available.

In the wake of Volkswagen's deliberate cheating on EPA emissions standards, it makes no sense that we give carmakers a free pass to pollute beyond standards needed to maintain public health. This provision is a big win for the Volkswagens of the world but does nothing to benefit the public.

It is about time we had a hearing in enhancing auto safety. The safety of American drivers, passengers, and pedestrians should be above partisan politics. I urge my colleagues to engage in a bipartisan legislative process that will yield a stronger and more comprehensive bill. I am anxious to participate in that kind of dialogue. We still have an opportunity to deal that.

And unless there is someone else who would want some time, I yield back my time.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Burgess. The chair thanks the gentlelady. The gentlelady yields back.

The chair recognizes the chairman of the full committee, Mr. Upton, 5 minutes for an opening statement, please.

The Chairman. Well, thank you, Mr. Chairman.

You know, a car isn't just how you get around when you are from Michigan. It is a neighbor's job, it is a fiber that connects our communities, and the backbone of our State's economy, and we take great pride in the industry's inventiveness, resilience, and creativity. It is what has helped the industry become what it is today, a global leader in vehicle safety, comfort, and superior driving experiences.

But over the past couple years, we have seen the best of what the auto industry has to offer. It is no secret that I am an optimist and believe that the future is bright for the auto industry, for Michigan, and for the country. But unfortunately, we have also seen safety shortcomings and flat-out dishonesty along the way. I am glad we are here today to start talking about making fixes to the National Highway Traffic Safety Administration and to the industry to ensure that cars are as safe as humanly possible.

We are in the midst of an exciting time of automotive ingenuity. What was once science fiction is now becoming

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

reality. This innovation is to be applauded, not only because it will revolutionize driving, but because of what it means for vehicle safety, the environment, and most importantly, saved lives.

The staff discussion draft that we are going to review today is a starting point to achieve those ends. It includes proposals intended to foster greater vehicle and roadway safety for motorists now and for years to come. Some pieces, like having a corporate officer responsible for safety compliance, certainly isn't new. Other ideas, like how to best ensure cybersecurity, may need to further evolve. It is encouraging that the industry is setting up an Information Sharing and Analysis Center. There is also good talk about forming a working group to address cybersecurity best practices.

The draft seeks to address concerns around recall awareness and incentivizes automakers to invest in new safety technologies that will indeed save more lives. It also includes plans that will help modernize the work and mission of the NHTSA to ensure that the agency is fully capable of keeping pace with the innovation and progress of the industry in the 21st century.

This is a lifesaving endeavor. I look forward to a thoughtful and engaging dialogue on the merits of each proposal and what additional considerations should be made by this

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

committee. While we have a ton of witnesses today, I also want to invite everyone with an interest to give us feedback on how we can improve the legislation.

This committee is unwavering in its commitment to ensure that the auto industry and the government are doing everything that they can to make cars safer and protect the lives of the driving public and their passengers. Our work continues to improve safety for drivers.

And I yield the balance of my time to the vice chair of the full committee, Marsha Blackburn.

Mrs. Blackburn. Thank you, Mr. Chairman, and I want to thank our witnesses for being here today, and Chairman Burgess, just to thank you for this hearing. I think you have chosen the perfect day to do this hearing as we go back to the future, and it is October 21st, 2015, and we all remember that movie and the significance of that date. And here we are talking about interconnected cars and using tablets and using this data. So perfect day to have this discussion. And, Chairman Burgess, I thank you for the draft that you have brought forward.

My constituents are truly interested in this issue. Whether they work with Toyota or GM or Nissan or in the aftermarket auto parts industry with AutoZone, everybody has an interest in what we are doing. And here is the reason why: When you look at the

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

stats that we are going to have a quarter-billion interconnected cars on the roadway by 2020, by 2020, and the significance of that, as automobiles have become more computerized, it is important for us to look at these technological advances such as the vehicle-to-vehicle communication. There is a lot of curiosity about that. We look forward to getting some answers as to how this is going to work.

And I thank the gentleman from Texas for initiating the conversation and yield back.

Mr. Burgess. The chair thanks the gentlelady. The gentlelady yields back.

The chair recognizes the ranking member of the full committee, Mr. Pallone, 5 minutes for an opening statement, please.

Mr. Pallone. The title of today's hearing refers to vehicle and roadway safety, but it is clear from the draft before us that safety is not the focus. Instead of improving auto safety, this draft weakens current environmental and consumer protections.

Auto safety is a pressing topic that deserves our utmost attention. Traffic fatalities in the U.S. grew by 14 percent in the first 6 months of 2015. That increase comes after years of declining traffic deaths. And injuries are also up. The National Safety Council reports that medically related motor

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

vehicle injuries grew by 30 percent since 2014, and these increases should concern everyone.

Earlier this year, Ranking Member Schakowsky and I introduced the Vehicle Safety Improvement Act of 2015 as a starting point for bipartisan negotiations with an eye towards comprehensive auto safety legislation. Our bill would make real improvements to ensure that the millions of drivers and passengers across this country are kept safe. It gets NHTSA the information, resources, and authorities needed to protect consumers, and our bill also empowers consumers with more information and ensures used cars are fixed before they are resold.

Instead of those safety measures, this draft would give automakers credits towards greenhouse gas emissions and fuel economy requirements for incorporating crash avoidance and vehicle-to-vehicle or V2V technologies in new cars even though there is no apparent link between these technologies and lower emissions. Manufacturers would get these credits for things they are already doing, not as an incentive to improve safety.

Not only are manufacturers continuously touting their cars as including the latest in crash-avoidance technologies, NHTSA has already released its proposal to require V2V-enabled cars. NHTSA also secured commitments from several automakers to include automatic emergency braking on all new cars, and furthermore, many

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

crash-avoidance technologies are currently part of a prominent safety rating from the Insurance Institute for Highway Safety, meaning that automakers already have considerable incentive to add those features to cars.

In the wake of the Volkswagen emissions fraud scandal, I am alarmed that Congress would even consider giving automakers a way around environmental regulations. In effect, auto companies would receive a pass on pollution because they installed communication devices in their vehicles. Just as Volkswagen's technologies did not prevent NOx emissions, communication devices will not prevent greenhouse gases. And this bill essentially creates a congressionally sanctioned defeat device.

I am also concerned about the privacy and cybersecurity provisions in this draft. As more high-tech vehicle safety equipment is integrated into cars, strong consumer privacy and data protections are more important than ever. But instead of improving privacy or cybersecurity protections, this draft gives automakers liability protection for simply submitting a privacy policy or cybersecurity plan, even if that policy or plan provides no real protections for consumers, and even if those policies are not followed.

Because my time is limited, I want to turn to process for a moment. I am disappointed by the unilateral approach taken by

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

the majority in drafting this legislation. For months we have been trying to work with our Republican colleagues to draft auto safety legislation that would meaningfully reduce deaths and injuries on the roads. But instead of pursuing a bipartisan approach, the majority chose to prepare this legislation behind closed doors.

In addition, I am troubled that the Environmental Protection Agency could not find a way to attend today. Regardless, if the majority wants to open up the Clean Air Act, then this bill must be the subject of a hearing and markup by the Energy and Power Subcommittee, which has the jurisdiction and expertise to evaluate these proposals.

So, Mr. Chairman, this draft in my opinion fails to increase auto safety, it harms the environment, and relieves automakers from responsibility regarding consumer data. This is a weak bill that I can't support. Yet again, I can only express my hope that in the near future we can work together to make real progress towards improving auto safety.

And unless someone else wants time, I yield back. Thank you, Mr. Chairman.

Mr. Burgess. The gentleman yields back. The chair thanks the gentleman. This concludes opening statements.

The chair would like to remind Members that, pursuant to



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

committee rules, all Members' opening statements will be made part of the record.

And again, we want to thank our witnesses for being here today, taking time to testify before the subcommittee. Today's hearing will consist of two panels. Each panel of witnesses will have the opportunity to give an opening statement followed by a round of questions. And once we conclude with questions on the first panel, we will take a brief -- underscore brief -- recess to set up for the second panel.

Our first witness panel for today's hearing is to include Dr. Mark Rosekind, the Administrator of the National Highway Traffic Safety Administration; and Mrs. Maneesha Mithal, the Associate Director of the Division of Privacy and Identify Protection at the Federal Trade Commission. We appreciate both of you being here today and sharing your time with us. We will begin the panel with you, Dr. Rosekind, and you are recognized for 5 minutes for an opening statement.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

STATEMENTS OF MARK ROSEKIND, ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION; AND MANEESHA MITHAL, ASSOCIATE DIRECTOR, DIVISION OF PRIVACY AND IDENTITY PROTECTION, FEDERAL TRADE COMMISSION

STATEMENT OF MARK ROSEKIND

Mr. Rosekind. Chairman Burgess, Ranking Member Schakowsky, it is a privilege to represent the men and woman of the National Highway Traffic Safety Administration in offering the agency's perspective on how to strengthen our safety mission. Our mission is focused on saving the 32,719 lives lost, preventing the 2.1 million injuries, and reducing the 5.4 million crashes that occurred on American roadways in 2013.

NHTSA will continue to use every tool available in pursuit of public safety, and in just the last 10 months the agency has done the following:

Strengthened our oversight and enforcement on vehicle safety, issuing record civil penalties for recall and safety reporting failures and making innovative use of consent orders to improve safety performance in the auto industry.

Secured the first cybersecurity-related safety defect recall in automotive history, and made unprecedented use of our authority to explore measures to speed the most complex safety

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

recall in American history, involving Takata airbag inflators.

We have embraced Secretary Foxx's call to accelerate technology innovations that can save lives -- accelerating proposed rulemaking on vehicle-to-vehicle technology; undertaking a review of our regulatory structure to find and address obstacles to safety innovations; announcing our intent to add automatic emergency braking to our New Car Assessment Program; and securing voluntary commitments from 10 major automakers to make AEB systems standard equipment on new vehicles.

And we have answered the call of this committee and the American public to improve our own performance in identifying and addressing safety defects, pledging to fully implement recommendations of a recent DOT inspector general report on an expedited schedule and to undertake dozens of additional improvements to our screening, investigation, and analysis processes.

These efforts underscore NHTSA's commitment to safety. Whatever decisions this committee or the Congress make, NHTSA will seek to do all we can for safety within available authorities and resources. And with your help, we can do even more.

DOT and the Administration have identified actions Congress can take to strengthen NHTSA's safety mission. In the GROW AMERICA Act, Secretary Foxx proposed significant enhancements to

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

NHTSA safety authorities, including imminent hazard authority similar to that already held by other safety regulators, criminal penalties for vehicle hacking, authority to prevent rentals or used-car sales of vehicles under safety recall, and significantly enhanced civil penalty authority to provide meaningful deterrence against violations of the Safety Act. GROW AMERICA and the fiscal year 2016 budget request would provide significant funding to enhance our Office of Defects Investigation and to more vigorously address emerging issues such as cybersecurity.

These proposals are essential to enhance our safety mission. And as I told your Senate colleagues in June, in my judgment as a safety professional, failure to address gaps in our available authority, personnel, and resources are a known risk to safety.

NHTSA has been able to spend only a few days on our detailed technical analysis of the staff discussion of this draft legislative proposal that was released late last week. And I would like to thank the committee members and staff for their initial engagement with NHTSA and hope productive conversations can and will continue. However, even our initial examination has identified examples of significant concerns.

The discussion draft proposal includes a provision that would provide fuel economy and emission credits to automakers for deploying advanced crash technologies. I would just raise two

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

general points here: First, there should not be a tradeoff between safety and public health. The American public expects vehicles that address both safety concerns and public health and environmental concerns. Second, the automakers already have ample incentive to deploy advanced safety technologies -- the lives they can save and the injuries that they can prevent.

The discussion draft would require a system to notify owners of recalled vehicles when they register or re-register their vehicle with state motor vehicle agencies. State agencies are one potential touch-point for owners, especially second or third owners of used vehicles. But the costs to establish or maintain such a system are unknown and the technology is not yet in place, which is why GROW AMERICA proposed a pilot program to work through these issues. Under the draft proposal, States that do not meet the requirement would be kicked out of the National Driver Register, an important tool that took over a decade to get 100 percent participation that identifies habitual traffic offenders and ensures that commercial drivers have clean records.

The committee's discussion draft includes an important focus on cybersecurity, privacy, and technology innovations, but the current proposals may have the opposite of their intended effect. By providing regulated entities majority representation on committees to establish appropriate practices and standards, and

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

then enshrining those practices as de facto regulations, the proposals could seriously undermine NHTSA's efforts to ensure safety. Ultimately, the public expects NHTSA, not industry, to set safety standards.

The draft legislative proposal would require NHTSA to prepare certain recall notices in coordination with the manufacturer and would prevent NHTSA from making them public until manufacturers have made available complete lists of vehicle identification numbers for affected vehicles. This proposal would require NHTSA to withhold safety defect information from the public and give the manufacturers responsible for the defect control over the time line and release of NHTSA-initiated recall actions. This proposal weakens the agency's enforcement authority and is in direct conflict with other congressional interests to increase the transparency of safety information.

It would be very hard to argue that the best response to recent events affecting auto safety is to erode NHTSA's ability to regulate and oversee safety. What is required is to strengthen NHTSA's ability to achieve its mission by working together to address gaps in our authorities and resources. Discussion of these and other issues is essential to our shared goal of greater safety on America's roads.

I thank you, and I look forward to your questions.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

[The prepared statement of Mr. Rosekind follows:]

\*\*\*\*\* INSERT 2 \*\*\*\*\*

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Burgess. The chair thanks the gentleman, and the gentleman yields back.

Ms. Mithal, you are recognized for 5 minutes for an opening statement, please.



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

STATEMENT OF MANEESHA MITHAL

Ms. Mithal. Thank you. Dr. Burgess, Ranking Member Schakowsky, and members of the subcommittee, I am Maneesha Mithal from the Federal Trade Commission. I appreciate the opportunity to present the Commission's testimony on the privacy- and security-related provisions of the discussion draft to provide greater transparency, accountability, and safety authority for the NHTSA.

The FTC has served as the primary federal agency charged with protecting consumer privacy and security for the past 45 years. We have brought hundreds of privacy and data security cases targeting violations of the Federal Trade Commission Act and other laws.

In addition to enforcing a wide range of privacy and security laws, the FTC also educates consumers and businesses. Most recently, the FTC launched its Start With Security business education initiative that includes new guidance for businesses, as well as a series of conferences across the country designed to educate small businesses on security. The next conference will take place on November 5 in Austin, Texas.

On the policy front, we conducted a workshop on the Internet of Things where we specifically hosted a panel on connected cars.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

We released a report on the workshop earlier this year.

With this background, we are pleased to offer our views on Title III of the discussion draft. We have serious concerns about the privacy, hacking, and security provisions of Title III.

First, as to privacy, we are concerned that the safe harbor from FTC action is too broad. A manufacturer who submits a privacy policy that meets specific requirements but does not follow them may not be subject to any enforcement mechanisms. Furthermore, even though the privacy policy is only required to describe protections for vehicle data collected from owners, renters, and lessees, the Commission could be precluded from bringing a Section 5 action based on any privacy-related misrepresentation on a manufacturer's website, even if the misrepresentation is unrelated to vehicle data.

Second, as to hacking, Section 302 of the discussion draft would prohibit unauthorized access to vehicle data systems. Security researchers, however, have uncovered security vulnerabilities in connected cars by accessing such systems. Responsible researchers often contact companies to inform them of these vulnerabilities so that the companies can voluntarily make their cars safer. By prohibiting such access even for research purposes, this provision would likely discourage such research to the detriment of consumers' privacy, security, and

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

safety.

Finally, as to security, the bill creates an advisory council to develop best practices. Manufacturers that implement these best practices will have a safe harbor under Section 5 of the FTC Act. However, the current draft may not result in best practices robust enough to protect consumers for several reasons:

First, at least 50 percent of the council's membership must consist of representatives of automobile manufacturers. Because any best practices approved by the council will be by a simple majority of members, manufacturers alone could decide what best practices would be adopted.

Second, the discussion draft contains eight areas the best practices may, but not must, cover. In this respect, the draft does not even create a minimum standard of best practices.

Third, there is no requirement to update practices in light of emerging risks and technologies.

Fourth, by creating a clear and convincing evidence standard for disapproving best practices submitted by companies, the bill gives NHTSA too little discretion and would likely result in the approval of plans that may meet the bare minimum best practices on paper but are in practice not appropriately tailored to foreseeable evolving threats.

Finally, the proposed safe harbor is so broad that it would

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

immunize manufacturers from liability even as to deceptive statements. For example, false claims on a manufacturer's website about its use of firewalls or other specific security features would not be actionable if these subjects were also covered by the best practices.

In sum, the Commission understands the desire to provide businesses with certainty and incentives in the form of safe harbors to implement best practices. However, the security provisions of the discussion draft would allow manufacturers to receive substantial liability protections in exchange for potentially weak best practices instituted by a council that they control. The proposed legislation as drafted could substantially weaken the security and privacy protections that consumers have today.

Thank you for the opportunity to provide the Commission's views on the privacy and security provisions of the discussion draft. We look forward to continuing to work with the subcommittee, Congress, and our partners at NHTSA on this critical issue.

[The prepared statement of Ms. Mithal follows:]

\*\*\*\*\* INSERT 3 \*\*\*\*\*

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Burgess. The gentlelady yields back. The chair thanks the gentlelady. I thank you both for your testimony, and we will move to the question-and-answer portion of the hearing. And to begin, I will recognize myself for 5 minutes.

Ms. Mithal, let me just ask you to clarify because I don't think it was in the written statement that I had available to me last night. You mentioned that there would be one of your Start With Security business education initiatives in Austin, Texas, is that correct?

Ms. Mithal. That is correct.

Mr. Burgess. And what was the date that you gave for that?

Ms. Mithal. November 5.

Mr. Burgess. Very well. So for the benefit of our C-SPAN audience, I just wanted to repeat that because, although my congressional district is a little north of Austin, it obviously will affect people in my State.

Dr. Rosekind, thank you for being here. Thank you for always being very generous with your time and very forthcoming whenever there are questions. Thank you for opening up the doors of the National Highway Traffic Safety Administration to committee members to come and visit with you and see the good work that you and the men and women employed there, the good work that you are doing.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

I do have a copy of the inspector general's audit report. I am sure you are familiar with it. The inspector general's report was issued in June of this year. Can you take just a moment and go through which recommendations have been implemented?

Mr. Rosekind. Certainly. And just as context I will be clear that one of the things we did was actually commit to fulfilling all 17 recommendations within a year, of which the inspector general made sure I understood that is never done, to actually make that kind of commitment. And we actually gave a schedule. I mention that because the first one has been completed 2 weeks ahead of schedule and we are on schedule for all the other 16 at this point.

Mr. Burgess. Very well. Can you briefly describe the operations for the council of vehicle electronics, vehicle software, and emerging technologies, that council that is being set up at NHTSA?

Mr. Rosekind. The current -- I am sorry. I am just trying to clarify --

Mr. Burgess. Is there a council for vehicle electronics at NHTSA?

Mr. Rosekind. We have an office.

Mr. Burgess. An office?

Mr. Rosekind. Yes. Right.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Burgess. Okay.

Mr. Rosekind. And I am just trying to get my bearings here. So in 2015 actually -- and we can send it to you -- we published NHTSA and Vehicle Cybersecurity, and what that did was talk about what we have been doing in this arena. And so it actually describes how, starting in 2012, we reorganized our offices to have a specific office that addresses that with specific people looking at the cybersecurity issues related to electronic controls in vehicles.

Mr. Burgess. And is there a separate office for vehicle software?

Mr. Rosekind. That is in that electronic vehicles --

Mr. Burgess. Contained?

Mr. Rosekind. -- control, correct. And we have seven people in D.C. and three at our Ohio Vehicle Research and Testing Center that is there.

Mr. Burgess. And who leads that office or that council?

Mr. Rosekind. Well, right now, the Associate Administrator Nat Beuse is the technical lead on that.

Mr. Burgess. And that also includes the Center for Emerging Technologies at NHTSA?

Mr. Rosekind. Correct.

Mr. Burgess. Is there a mission statement that has been

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

published for that office or that council?

Mr. Rosekind. I don't know if there is a specific mission statement for that office, but all of that would be in the 2015 NHTSA and Vehicle Cybersecurity that we will send you.

Mr. Burgess. If you were to give us a thumbnail of what the mission of that office is, could you do that?

Mr. Rosekind. Sure. You know, in 2012 I think this was trying to look ahead. What has been interesting for me is everyone saying this is an issue now. NHTSA has been on this for at least 3 years, starting with a structural change to the agency that would at least have focused people looking at this.

And they are looking at policy, testing, research, and having continual interactions with the industry to make sure that we are up on whatever the latest things are people are thinking about.

Mr. Burgess. Now, Ms. Mithal, let me just ask you. Does the Federal Trade Commission currently coordinate with the National Highway Traffic Safety Administration on data privacy and security?

Ms. Mithal. We do, yes. So, for example, we have had several meetings with NHTSA staff. We also commented on their report on vehicle-to-vehicle communications last year.

Mr. Burgess. Let me just take a minute. Dr. Rosekind, this may not be entirely within your area, but I mean you are aware



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

that another subcommittee held a hearing on the Volkswagen emission problem and the defeat device. Do you know, what are the standard allowable nitrous oxide emissions under current EPA guidelines? We were told in the other subcommittee that 10 to 20 to 40 percent more than was allowable. Can you actually give me a figure in grams or liters what is allowable under nitrous oxide emissions?

Mr. Rosekind. I can make sure we send you a technical report so I can give you a specific number.

Mr. Burgess. That would be great. And I would also like the information as to what that was in calendar year 2000 just as a reference point. Would that be possible?

Mr. Rosekind. You bet.

Mr. Burgess. All right. Thank you very much. I will yield back and recognize the ranking member of the subcommittee Ms. Schakowsky 5 minutes for questions, please.

Ms. Schakowsky. Thank you.

I would actually like the victims or the families of the GM switch failure to at least raise their hands so we know where you are. I want to thank you very much for coming today. I know this is of great interest to you.

I have a question for Dr. Rosekind. So this draft would require NHTSA to coordinate with auto manufacturers before

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

publishing notice of any vehicle defect or noncompliance. I am concerned about how this would affect NHTSA's ability to independently determine that a recall is necessary and notify the public if the affected manufacturer disagrees. It seems as though a manufacturer could obstruct the notification process at least temporarily by failing to submit the affected vehicle identification numbers.

So let me ask you, Dr. Rosekind. How would requiring NHTSA to coordinate with manufacturers before publishing a notice of a defect present a risk to NHTSA's ability to issue recalls when necessary

Mr. Rosekind. And I would like to handle this actually from two angles. One is what you are highlighting. This actually addresses NHTSA-initiated actions. Why that is important is because many of the recalls that occur are initiated by the automakers. They identify something; they move forward. A NHTSA-initiated recall is because they have denied the need to do that, and we have had to have the action. And so the concern is, as at least currently drafted, basically the time line and control of that would be basically under the control of the person who created the defect.

But I think the other part really has to do with withholding the safety information. I mean this committee, we have heard you.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

It is really frustrating to put the information out and not have the supply of parts ready, et cetera. But I can't imagine any of us sitting here knowing that we had safety defect information, holding it back, and then having somebody lose their lives due to that defect when we had the information. I mean that has been part of what we have done from the beginning is make sure people get to make that choice, not the government, that if they have that information, they get to choose what they would like to do, including park their car or get a rental or do whatever else.

So one has to do with the control and time line; that would be the manufacturer. But the other I think is for us just to think about the potential delay in providing information which clearly we would rather do as soon as we have it.

Ms. Schakowsky. Thank you. It is clear that the ability to move quickly, then, in situations in which a vehicle defect poses a serious public safety risk, perhaps even the life of someone is essential, but NHTSA currently has no authority to take emergency action. That is why in the legislation that Mr. Pallone and I have introduced, the Vehicle Safety Improvement Act, includes imminent hazard authority, which gives the Administration the ability to step in and issue a recall in cases where a defect substantially increases the likelihood of serious injury or death.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

So how would this imminent hazard authority be helpful to NHTSA in carrying out its mission to reduce deaths, injuries, and economic loss resulting from motor vehicle crashes?

Mr. Rosekind. And thank you, Congresswoman, for identifying -- we don't want to go from withholding information. We actually think we need to be in the other direction, which is what you have highlighted. There is a gap. Other safety regulators have it. Imminent hazard would have allowed us to get the Takata airbag inflators off years before. And that authority, which, again, others already have, it not available currently to NHTSA.

Ms. Schakowsky. Some of my colleagues have noted today traffic deaths rose by 14 percent in the first 6 months of 2015. Injuries have risen by 30 percent since 2014. I am concerned that this draft bill would put more strain on NHTSA and its already over-stressed resources without actually improving safety. According to one estimate, the number of vehicles on U.S. roads grew by nearly 4 million vehicles from 2013 to 2014.

Meanwhile, NHTSA's budget has remained relatively flat over the past few years. Appropriations for fiscal year 2016 continue that trend, coming in more than \$70 million short of NHTSA's request.

So, Dr. Rosekind, do you believe that stagnant funding for

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

NHTSA has made it harder for the Administration to do its job of keeping unsafe vehicles off the road?

Mr. Rosekind. There is no question. The last time I appeared before you I made the comment, "give us more resources; we will give you more safety." The equation is very straightforward. If you give us more requirements at the same resources, you will get less safety.

Ms. Schakowsky. This draft calls on NHTSA to conduct at least eight new reports and studies without providing any additional funding. Would you expect additional reports and studies to require a diversion of resources from other NHTSA programs?

Mr. Rosekind. Absolutely. We need the technical and other resources to produce these kinds of reports.

Ms. Schakowsky. Thank you. I yield back.

Mr. Burgess. The gentlelady yields back. The chair thanks the gentlelady.

The chair recognizes the vice chair of the subcommittee, Mr. Lance, 5 minutes for questions, please.

Mr. Lance. Thank you, Mr. Chairman.

Good morning to you both.

The state motor vehicle agency in New Jersey has contacted me, and I think this is a concern of various state agencies. There

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

is a section directing motor vehicle agencies to notify drivers of open recalls on their vehicles when they are renewing registration, and in New Jersey, that is once a year and I presume that is true in other States as well. And there is some concern at the state level that this would put an undue burden on the various States.

I certainly understand the benefit in increasing notification and recall remedy rates, and we all favor that. However, I do share some of the concerns of the agency in New Jersey. And could you please, Dr. Rosekind, comment on the feasibility of your agency's coordinating with state agencies to ensure they are able to have the information necessary to inform drivers of open recalls on vehicles within their States.

Mr. Rosekind. And, Congressman, you just used the word, which is the feasibility. And NHTSA held a Retooling Recalls day event to see how do we increase to 100 percent? Automakers have been doing research to understand not just about recalls, how do we get remedies. But you have hit on the concern. There is no technology. Nobody knows the cost. Nobody knows the procedures to use DMVs to get this information out.

It is a great concept. There is super touchpoint to get to people. The question is how to do it. And that is why in GROW AMERICA the suggestion was for a pilot study to figure it out and

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

make sure that it would actually be effective.

Mr. Lance. And I presume the pilot study would be with one or several of the various jurisdictions. And is there anticipation as to how that pilot study would occur, Dr. Rosekind?

Mr. Rosekind. Yes. Some of that is outlined in GROW America, and it involves two States. And just the things that I mentioned, which is we need to figure out the technology, what would be the procedures, what would be the cost. You do a pilot and a couple studies obviously with your view to how you would scale it for the country, with does it even work that way or not?

Mr. Lance. Is it typical in the States that a vehicle registration is once a year or are there multiyear registrations in some of the States?

Mr. Rosekind. I believe it is annual. If there is an exception, I can find that out for you.

Mr. Lance. Thank you very much.

Under the legislation, automakers would be required to take reasonable steps to ensure that other entities adhere to the automakers' privacy policies. And the automakers' privacy policies, as applied to automakers, would not be subject to FTC jurisdiction. What about the privacy policies of other entities that would potentially have to adhere to the automakers' privacy policy? So I request any comments you might have on that.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Ms. Mithal. Sure. So it appears from a read of the bill that the safe-harbor-from-FTC action would apply to the manufacturers. So I would believe that we would still have the authority to go after other entities under Section 5 of the FTC Act.

Mr. Lance. Thank you very much. I yield back the balance of my time, Mr. Chairman.

Mr. Burgess. The chair thanks the gentleman. The gentleman yields back. The chair recognizes the gentleman from New Jersey, Mr. Pallone, 5 minutes for questions, please.

Mr. Pallone. Thank you, Mr. Chairman.

High-tech vehicle safety technologies are expected to save thousands of lives per year once they are in broad use, and a NHTSA report estimates that two types of V2V technology alone could prevent more than 300,000 crashes. I am concerned, however, that in spite of the benefits of these technologies, Title V of this bill is based on a false tradeoff: vehicle safety instead of environmental safety. Sections 502 and 503 would exchange greenhouse gas emissions and fuel economy credits for manufacturers installing advanced safety technology and V2V in new cars. Particularly in light of the shocking emission fraud scandal surrounding Volkswagen, I am worried of any opportunity for automakers to avoid complying with environmental regulations.



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

So let me start, Dr. Rosekind, I understand that NHTSA is already working with auto manufacturers on including advanced safety technology in more vehicles, is that correct?

Mr. Rosekind. Yes. And if I could just -- two things. One is Secretary Foxx has asked us to accelerate anything that is a new lifesaving technology. And so the vehicle-to-vehicle proposed rule for 2016 will actually get out at the end of this year. And, yes, I think we need to acknowledge 10 manufacturers came forward and made a commitment to make automatic emergency braking standard on all their vehicles. That was without any mandates.

Mr. Pallone. So the proposed rule you mentioned would require all manufacturers to make their vehicles V2V-enabled?

Mr. Rosekind. Correct.

Mr. Pallone. And that you said by the end of the year?

Mr. Rosekind. The proposal will be out by the end of the year.

Mr. Pallone. And then you said manufacturers are already installing these advanced technologies in their cars. Are there other incentives such as revising NCAP that you are considering to get these technologies deployed to all cars and not just the luxury cars?

Mr. Rosekind. There are three tools. We like to use all

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

of them. Rulemaking is one of them. NCAP, the New Car Assessment Program, which is under review right now, more to talk about that in the near future. But I am also highlighting these 10 auto manufacturers who came together basically with IIHS, the Insurance Institute for Highway Safety, and NHTSA to do this on their own. These are three different tools. And I really have been pushing collaboration and the opportunity to expedite and expand safety beyond the minimums that we get from rulemaking.

Mr. Pallone. So again, a requirement that V2V be installed in every new vehicle is already in the pipeline, and you said that the Insurance Institute for Highway Safety already requires -- I don't know if you mentioned this -- requires the vehicle to be equipped with certain advanced safety technologies to qualify for its top safety ratings. Is that correct?

Mr. Rosekind. That is correct.

Mr. Pallone. And then you said you worked with IIHS to get certain commitments on technologies for manufacturers?

Mr. Rosekind. Correct. And in January we announced that automatic emergency braking is being added to NCAP, and there are further changes that are coming soon.

Mr. Pallone. Okay. I mean I think most consumers would like to have a car that is both fuel efficient and safe. I mean that makes sense. Do you support giving automakers CAFÉ credits

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

for installing advanced automotive technologies?

Mr. Rosekind. I think the general principles that I stated are pretty important here. The American public expects both safety and public health. And the second part is I really hope that the manufacturers have enough incentive for lifesaving technologies. Those are going to be the lives they save and the injuries they prevent by putting those advanced technologies in their vehicles.

Mr. Pallone. So do you want to give me an opinion, though, whether you like or support this idea of giving the automakers the CAFÉ credits because they install these advanced auto technologies?

Mr. Rosekind. And we will provide sort of detailed technical analysis on that, but we don't think there should be a compromise. You should be able to get safety and public health and environmental concerns addressed because I think the incentives are already there: save lives, prevent injuries. That should be the highest incentive that anybody needs to add advanced technologies.

Mr. Pallone. All right. I appreciate that.

What impact would the Corporate Average Fuel Economy, or CAFÉ, credit provision in this draft have on vehicle fuel economy? And how might that affect consumers who buy these new cars? Do

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

you want to comment on that? In other words, what impact would the CAFÉ credit provision have on vehicle fuel economy?

Mr. Rosekind. The credit?

Mr. Pallone. Yes.

Mr. Rosekind. I am not sure it would change the actual -- the levels of what are actually covered under fuel efficiency may not change. It is more really the incentivizing, I think, that is part of that proposal.

Mr. Pallone. And so do you want to venture a guess as to how it would affect consumers who buy these new cars?

Mr. Rosekind. Yes. That is the sort of thing I think we need a little bit more time to sort of technically -- these are very good questions, but I think we would want to get a little more detailed before taking a specific position on them.

Mr. Pallone. Yes. All right. Well, thanks a lot. I appreciate it.

Thank you, Mr. Chairman.

Mr. Burgess. The chair thanks the gentleman. The gentleman yields back.

The chair recognizes the gentleman from Kentucky, Mr. Guthrie, 5 minutes for your questions, please.

Mr. Guthrie. Thank you, Mr. Chairman. I appreciate it.

Dr. Rosekind, did NHTSA or the Department of Transportation

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

participate in the development of the NIST cybersecurity framework, and will it participate in future iterations of that framework?

Mr. Rosekind. We have ongoing interactions with all kinds of government agencies, including NIST and DOD, et cetera. So we are always involved pretty much in at least participating, as well as having them participate in our activities.

Mr. Guthrie. Okay. Are there ways that NHTSA could currently participate or facilitate industry efforts to develop best practices for automotive cybersecurity?

Mr. Rosekind. Yes. And in fact, if you look at the model of having the 10 manufacturers come together to work on AEB as standard, it is a model to be applied across all kinds of issues, including cybersecurity. And so everybody has already read the Secretary is planning on having a meeting with the CEOs about the safety concerns that we have all been reading about, and he has specifically identified both safety and cybersecurity to talk to those CEOs about.

Mr. Guthrie. Okay. And then another question kind of follows what you just said. Has NHTSA and the auto industry had discussion on best how to apply the NIST cybersecurity risk-management framework to the development of automotive security?

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Rosekind. Yes, those discussions have begun.

Mr. Guthrie. Thank you.

And then, Ms. Mithal, by what standard does the FTC determine if auto manufacturers have tested the security of cars appropriately before putting them on the market?

Ms. Mithal. Sure. So our standard is Section 5 of the FTC Act, which prohibits unfair or deceptive practices. So if a company makes a misrepresentation about a security practice, then we can take action.

An unfair practice is one that causes or is likely to cause substantial consumer injury not outweighed by the benefits to competition and not reasonably avoidable by consumers. So, in essence, it is a cost-benefit analysis. So there is no such thing as perfect security, but what we do require is reasonable security.

Mr. Guthrie. Reasonable security, thank you. And then in your testimony you discuss the FTC's Start With Security, a business initiative. Can you discuss how that should be applied to car companies and others involved in the connected car space?

Ms. Mithal. Sure. So I can give a couple of examples. So one example that we give in the Start With Security business guidance is that companies should test products before they launch them as opposed to launching the products first and then seeing

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

about problems later. So it is something that we call security by design.

Another thing we talk about in our Start With Security guidance is having a vehicle to accept vulnerability reports so that companies can have their ears to the ground and know of security research that is out there and evolving threats and emerging issues in their devices --

Mr. Guthrie. Okay. Thank you.

Ms. Mithal. -- including cars.

Mr. Guthrie. I appreciate it. I appreciate your answer.

That is all I have, Mr. Chairman. I yield back.

Mr. Burgess. The chair thanks the gentleman. The gentleman yields back.

The chair recognizes the gentleman from Massachusetts 5 minutes for questions, please.

Mr. Kennedy. Chairman, Doctor, thank you very much. To the panelists, thank you very much for your testimony here today. And I want to thank the chairman for calling the hearing.

Many of today's cars contain a range of navigation, telematics, and event data recording systems, among others, that all have the ability to record driving history information. Auto manufacturers, other third parties also have access to this wealth of information. It is a bit concerning to me, candidly, and I

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

am sure it concerns a number of other consumers as well. People want to know that their data is being kept safe and being kept private, and at least when it is used, being used with their consent.

So, Dr. Rosekind, I was hoping that you might be able to start the discussion. The data privacy provision in this discussion draft would require that car companies submit privacy policies to NHTSA, but it does not give NHTSA any authority to recommend changes or to set a standard for acceptable policies. Is that how you read the legislation as well?

Mr. Rosekind. That is how we read it, yes.

Mr. Kennedy. So do you think consumers could be or should be concerned that there is no ability for NHTSA to recommend any changes?

Mr. Rosekind. I think the public expects and wants NHTSA both to regulate and set guidelines, not the manufacturers, to what the standards are that protect the traveling public.

Mr. Kennedy. And, Ms. Mithal?

Ms. Mithal. Yes, I think there are concerns that, although the bill prescribes certain requirements to be placed in privacy policies, it may not require the companies to follow them or it may not provide enforcement mechanisms to require the companies to follow those guidelines.



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Kennedy. So that is where we are going. It is my understanding that under the draft bill, an automaker will receive protection from civil penalties and FTC enforcement simply by providing NHTSA with a privacy policy that addresses the required items in the draft such as whether or not the automaker collects, uses, or shares data, and whether the consumer has any choice regarding the collection or use. It will not matter how a given company chooses to address those items, though.

So, as I read Section 301, a carmaker can hypothetically submit a privacy policy to NHTSA, violate that policy, and still be protected from FTC enforcement. It means that a carmaker can make promises to consumers about protecting their data, break those promises, and suffer no consequences under Section 5 of the FTC Act. So, Ms. Mithal, is that your understanding of how this system is set up under the draft legislation?

Ms. Mithal. That is our understanding and it is a real concern.

Mr. Kennedy. Do you think the bill provides sufficient incentives for automakers to create and adhere to the strong data privacy provisions for consumers?

Ms. Mithal. No. Unfortunately, no.

Mr. Kennedy. So if we have a situation where a car company claims to have expansive privacy policies to protect consumer data

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

and then violates those policies, isn't that an unfair incentive practice?

Ms. Mithal. Yes, it would be, and that would be something that the bill would strip the FTC's authority over.

Mr. Kennedy. Thank you. I also have some additional questions about the anti-hacking provision, which would create a civil penalty from gaining unauthorized access into a vehicle's data or critical system. While we can all agree that we would like to prevent bad actors from accessing our car's control systems, some observers have expressed concerns about penalizing independent researchers, or so-called white-hat hackers, who hack into vehicles' systems to draw attention to vulnerabilities or to conduct tests. In the past 6 months alone, these types of researchers made headlines by uncovering massive vehicle emissions fraud in Volkswagen and exposing vulnerabilities in a Jeep by controlling it remotely via the internet.

We also heard from several small local auto repair shops that they think they could be precluded from accessing important information they needed to effectively repair cars. They suggest that non-auto dealers repair up to 80 percent of all cars that are not still under warranty.

So, Ms. Mithal, do you have any thoughts on that provision? In particular, from your expertise in reviewing data security

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

cases, could you envision a scenario where information could be siloed so that repair shops could get enough information to repair cars but not fiddle with, say, emergency brakes?

Ms. Mithal. So let me be clear. We agree that there should be civil penalties for malicious hackers, but we are concerned that this bill would disincentive legitimate security researchers who responsibly contact companies, suggest that they fix those vulnerabilities, and companies fix those vulnerabilities to help consumers. And so we believe that the bill would create an impediment to that. On the auto repair issue, I would defer to NHTSA on that issue.

Mr. Kennedy. So you mentioned this a little bit. Can you discuss the importance of those researchers to your data security work?

Ms. Mithal. It is very important. Often, it is the white-hat hackers and security researchers that are bringing these problems to the attention of both the car manufacturers and regulators like the FTC.

Mr. Kennedy. And do you have any idea on how to make that distinction between white-hat and black-hat so to speak?

Ms. Mithal. I think that is something that will require very careful drafting, and we look forward to working with this subcommittee on that.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Kennedy. Great. Thank you. I yield back.

Mr. Burgess. The chair thanks the gentleman. The gentleman yields back.

The chair recognizes the gentlelady from Tennessee, Mrs. Blackburn, for 5 minutes for questions, please.

Mrs. Blackburn. Thank you, Mr. Chairman.

Okay. Let's stay with this regulation issue. And one of our concerns is a dual regulation, because as you all may or may not be aware, we have kind of grappled with this. And, Ms. Mithal, I know that you are with privacy in the internet space with the FCC trying to get in on top of the FTC jurisdiction. And that has caused a tremendous amount of confusion.

So let me go right where Mr. Kennedy was and let's talk about the way you have got a manufacturer that can get the safe harbor and then avoid that Section 5 enforcement if the manufacturer is meeting those requirements that are listed.

Now, NHTSA already handles the issue of privacy in the automotive space, and so what we want to do is avoid this confusion and this dual regulation. So is the FTC going to honor the recognition that NHTSA has this lead, and are they going to honor the safe harbor provision and act in good faith when they are reviewing these manufacturers' privacy policies and making certain that they meet those requirements?

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Ms. Mithal. So if I can make two points in response to your question?

Mrs. Blackburn. Sure.

Ms. Mithal. First, the concern is that the safe harbor is too broad in many respects. One example is that the privacy policy requirements only apply to vehicle data collected from owners, renters, or lessees. So, for example, if a manufacturer makes a misrepresentation on a website that applies to shoppers about how they are collecting shoppers' data, that wouldn't be covered by the privacy policy but the FTC couldn't bring action. So we have concerns about the breadth of the safe harbor.

Putting aside that, we work very well with NHTSA and we support the goal of avoiding overlapping and duplicative requirements. But at the same time, I think NHTSA and the FTC have different focuses. So, for example, NHTSA does recalls and we defer to their expertise in car safety issues. At the same time, we have the ability to get equitable relief against companies that don't maintain privacy and security of consumers in the form of, for example, implementing a security program, getting outside audits, in some cases disgorgement and redress. So we think that both agencies bring particular expertise to bear and can bring different remedies to the issue.

Mrs. Blackburn. And you are committed to making certain

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

that we draw the lines here so that we don't end up with a dual regulation or with confusion --

Ms. Mithal. Exactly.

Mrs. Blackburn. -- much of which exists -- you all have borne the brunt of this if you will.

Ms. Mithal. That is exactly right. I think --

Mrs. Blackburn. And consumers have been quite confused about the reach of the FCC and the FTC and is it diminishing your jurisdiction.

So as we look at this issue and knowing that cars are going to be more interconnected, not less, that they are going to be more computerized, not less, that you are going to have more data and people are going to say what are you doing with the data? How do you turn that into usable information? Then, this is something that should be cleaned up and handled appropriately on the front end.

Administrator Rosekind, I want to come to you for a couple things. How is NHTSA addressing the data collection practices of automakers and others in the automotive space? What kind of formal guidance are you currently giving? Have you laid that out? And what do you intend to do? Because we all know you can't be technology-specific if you will. You are going to have to umbrella this. So speak for just a moment before we run out of

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

time. Speak to that.

Mr. Rosekind. And I can just very quickly tell you some of those are already clearly outlined, things like the electronic data recorders that exist. There are privacy concerns there. They, for example, don't actually collect anything about the drivers. So those already have fairly clear -- that is just more a communications issue.

I think what we are now talking about is a lot of new areas that we are just understanding because our cars are computers. And I think you have highlighted something really important. It is going to actually require increased collaboration between our agencies for us to be able to apply our expertise so we make sure we protect people, and when there are malicious attempts to go after that data, we have ways to keep people protected.

Mrs. Blackburn. Well, I appreciate that. And we know that the data collection practices from the automakers and others in the industry can be used to provide some increased safety protocols. And I think consumers are interested in that, but they want to guard their privacy and they want to make certain that the data that is there is useful information, it is utilized in an appropriate way.

I yield back.

Mr. Burgess. The gentlelady yields back. The chair thanks

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

the gentlelady.

The chair recognizes the gentleman from North Carolina, Mr. Butterfield, 5 minutes for questions.

Mr. Butterfield. Thank you, Mr. Chairman, and let me thank the two witnesses for their testimony. I have been watching you intermittently on television, and both of you look good on television. So thank you very much.

Mr. Chairman, I would like to focus my questions on the rental car safety bill that I introduced with the support of Ranking member Schakowsky and Congresswoman Capps, H.R. 2198. The companion legislation passed the Senate with bipartisan support as part of the Senate's highway bill, and it is supported by the rental car industry. Many of them are here today, consumer organizations and General Motors and Honda and others. It would ensure that rental car companies fix recalled vehicles in their fleets before renting or selling them.

And so let me ask you, Mr. Administrator -- thank you for coming today. Some opponents of the rental car safety legislation have said that rental car companies should be allowed to rent or sell unrepaired defective recalled cars unless the manufacturer has specifically issued a do-not-drive warning. Is there any federal standard for when a do-not-drive warning must be issued?



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Rosekind. Thank you for pointing that out because that do-not-drive is issued by the manufacturer, not NHTSA. So they are determining whether or not the criteria would be to allow that to occur under rental or used car. So that happens extremely rarely.

Mr. Butterfield. So state again for the record who decides when such a warning is issued?

Mr. Rosekind. The manufacturer who has the defect that has been created in the vehicle is the one who determines the do-not-drive.

Mr. Butterfield. Okay. Can you give us some examples of defects where a do-not-drive warning was not issued by the manufacturer? For example, has any manufacturer issued a do-not-drive warning for Takata airbags?

Mr. Rosekind. That would be the example that I would give, given that that is the largest recall in auto history for sure and maybe the United States. There is no do-not-drive out on any Takata airbag inflator recall.

Mr. Butterfield. Thank you. That is what I needed to get into the record, Mr. Chairman. Thank you. I yield back.

Mr. Burgess. The chair thanks the gentleman. The gentleman yields back.

The chair recognizes the gentleman from Houston, Texas, Mr.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Olson, 5 minutes for questions, please.

Mr. Olson. I thank the chair.

Welcome, Dr. Rosekind and Ms. Mithal.

When I started driving in 1978, vehicle safety depended upon turning wrenches and sockets, and now it is all about keyboards and electronics.

My first question is for you, Dr. Rosekind. In NHTSA's view, should cybersecurity weaknesses be treated the same way as traditional vehicle safety defects? If so, what federal motor safety standards is NHTSA using to make that determination? If not, how is this addressing cybersecurity weaknesses in vehicles?

Mr. Rosekind. So there are actually a few questions in there and I will try to go to the core. You are right; things have changed dramatically. And the Secretary and NHTSA are really excited about seeing technology innovations accelerate our work in safety. But cybersecurity is one of the areas that is going to take a collaboration across government to manufacturers and others who understand cybersecurity to figure out what needs to get done.

We have all kinds of tools from rulemaking to all kinds of voluntary efforts that manufacturers want to do, so we have to absolutely acknowledge that the Information Sharing and Analysis Center, or ISAC, was created by the automakers to make sure that

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

they could get together and identify and share information, a critical element.

I keep pointing out that you can ask for all the regulation you want, but in cybersecurity, nimble and flexible is critical. By the time your regulations come out, it is probably 10 versions too late of what needs to get done. We are going to have to identify current and new tools to deal with this issue going into the future.

Mr. Olson. Is this using the NIST cybersecurity framework to guide its work in keeping vehicles safe?

Mr. Rosekind. That is one source, but we have been in contact with a full range, DOD, Homeland Security, DARPA, anybody that has expertise, including private technology companies of course that have done protection for our mobile phones and other elements. So we are in contact with the full range of trying to learn from them and how we can apply it to cybersecurity in the auto industry.

Mr. Olson. And about data collection, Dr. Rosekind, Section 4109(a) of the GROW AMERICA Act would prohibit the rental of a vehicle by a rental company if there is an open recall. I have a few questions regarding data collection attributed to this policy change in the highway bill. How many lives did NHTSA estimate will be saved if every rental vehicle under open recall

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

is grounded by rental companies, as required by Section 4109(a) of the GROW AMERICA Act?

Mr. Rosekind. And I will get you that analysis. As part of our technical assistance in supporting your efforts here, we will get you that analysis for both used, as well as rental cars.

Mr. Olson. How about injuries? How many injuries did NHTSA estimate will be prevented if the rental car grounding requirement in Section 4019(a) is enacted?

Mr. Rosekind. And we will include both fatalities and injuries and, if we can, crashes in that analysis for you.

Mr. Olson. Thank you. And, Ms. Mithal, how many data security cases has the FTC brought against car companies in the last 5 years? Any idea?

Ms. Mithal. We have not brought any connected-car cases. We have brought about 55 general data security cases in a variety of sectors from retail to healthcare to mobile apps to internet-connected cameras. I believe all the principles that those cases stand for apply equally to connected cars.

Mr. Olson. So zero for cars so far?

Ms. Mithal. Correct.

Mr. Olson. Okay. What is the Commission's expertise with respect to the security of critical safety systems in vehicles? Are there differences in how critical safety systems in vehicles

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

and should be treated compared to other critical infrastructures?

Ms. Mithal. So our focus has been on process, so all of our 55 cases stand for the lesson that companies need to implement processes upfront to make sure to protect against security violations. So, for example, companies, including car companies, need to hire people responsible for security. They need to conduct risk assessments. They need to oversee their service providers. They need to keep abreast of technologies surrounding them and emerging technologies that affect their areas. And that is very consistent with the NIST cybersecurity framework approach.

Mr. Olson. And as Dr. Rosekind mentioned, we have to be very nimble because this changes like that, and we have to keep up with these changes.

I yield back, my friend. Thank you.

Mr. Burgess. The chair thanks the gentleman. The gentleman yields back.

The chair recognizes the gentlelady from California 5 minutes for questions, please.

Mrs. Capps. Thank you, Mr. Chairman, for holding this hearing and granting my request to participate.

The draft legislation before us, it touches on many issues, and I want to continue to explore the topic brought up by my

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

colleague -- well, actually, the two last questioners, Mr. Butterfield in particular -- the critical issue that has been omitted from the draft: rental car safety.

In 2004, two young sisters Raechel and Jacqueline Houck were killed when their rented Chrysler PT cruiser caught fire and crashed. The sisters were returning home after visiting their parents just outside my district in Ojai, California, and had no idea that the car they were driving was subject to a safety recall that had not been fixed, nor acknowledged, before the rental company gave them this car. Despite receiving the safety recall notice a month before renting them the car, the rental company failed to get the free safety repairs done.

While federal law prohibits car dealers from selling new cars subject to recall, there is no similar law to stop rental car companies from running out dangerous recalled cars. This is a clear safety oversight and one that can and must be fixed, and that is why, as has been acknowledged, I introduced bipartisan legislation H.R. 2198 with my colleagues Walter Jones, Ms. Schakowsky, Mr. Butterfield to close this loophole. Our commonsense bill would simply fix federal law to prohibit rental car companies from renting or selling recalled cars.

The bill is strongly supported by the rental car industry, consumer safety groups, General Motors, Honda, and others. The

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

bill did pass the Senate as part of the DRIVE Act. And a Change.org petition to pass the bill recently started by Raechel and Jackie's mother, Cally Houck, has been signed by nearly 150,000 consumers across the country, yet I am disappointed this issue is not even mentioned in the draft we are considering today.

Administrator Rosekind, I know NHTSA and the Administration have been working to address this important issue. Does NHTSA support legislation to prohibit the rental of recalled vehicles?

Mr. Rosekind. Yes.

Mrs. Capps. Opponents of the bill erroneously claim that H.R. 2198 legislation would not improve consumer safety. Given NHTSA's support for banning the rental of recalled vehicles, I think it is clear that you perhaps disagree with this assessment. Would you briefly elaborate? Thank you.

Mr. Rosekind. New, used, or rental vehicles that have a known defect should be remedied before they are on the road.

Mrs. Capps. Thank you. Despite the broad support behind H.R. 2198, the auto manufacturer and dealer groups are fighting against this commonsense effort. Under pressure, the Alliance of Automobile Manufacturers instead proposed a potentially very harmful alternative that only requires rental companies to disclose that the vehicle is under recall before renting it out. Their proposal only prohibits the rental of recalled cars with

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

do-not-drive notices, as was referenced, despite the fact that such notices represent only a tiny fraction of safety recalls.

Administrator Rosekind, last year, NHTSA provided a letter to Senators Boxer and McCaskill expressing its opposition to the Alliance proposal. Would you elaborate on why NHTSA believes this proposal would fail to protect rental consumers?

Mr. Rosekind. I will repeat to be clear. New, used, rental, if it has a defect, it should be off the road. And as we were discussing, the do-not-drive is determined by the manufacturer of the defect --

Mrs. Capps. Exactly.

Mr. Rosekind. -- not NHTSA. And it is very rare.

Mrs. Capps. Thank you for clarifying that and really underscoring it.

Some opponents of H.R. 2198 have argued that many NHTSA recalls are frivolous because so few of them come with do-not-drive requirements. Does NHTSA issue frivolous recalls? By definition, aren't all safety recalls due to serious safety risk?

Mr. Rosekind. Yes. And we have a specific investigation process to determine those defects.

Mrs. Capps. Thank you. And I will yield back my time, but before doing so, I ask unanimous consent to enter into the record



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

a November 2014 letter from NHTSA to Senator McCaskill outlining the agency's response to the auto alliance proposal.

[The information follows:]

\*\*\*\*\* COMMITTEE INSERT 4 \*\*\*\*\*

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mrs. Capps. And I yield back the balance of my time.

Mr. Burgess. The chair thanks the gentlelady. The gentlelady yields back.

Seeing no other Members present to ask questions, let me just ask the ranking member if she would like a second question or redirect?

Ms. Schakowsky. No, I am fine. Thank you. Thank you to the witnesses.

Mr. Burgess. Dr. Rosekind, I just wanted to make sure that we offer once again the concept of people checking their vehicle identification numbers against the database that you provide, and perhaps you could just detail how someone would do that if they wanted to check.

Mr. Rosekind. Chairman Burgess, every time I appear before you, you graciously make sure that we provide information for consumers to do something about recalls. I can't thank you enough for that because I don't think we are ever done getting the information out.

People can go to SaferCar.gov, SaferCar.gov and look up their vehicle identification number and see if there are any open recalls. What is most important is if they find something, they have to act on it. Call their dealer, get it fixed.

Mr. Burgess. Now, what if, like me, they don't know their

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

vehicle identification number off the top of their head? Is there a place where they can find that information?

Mr. Rosekind. And, good point, because I am not sure any of us would know that off the top of our head. You can find that at the bottom left of your windshield. It is usually on the insurance card. So there are multiple places you can go. We even have a mobile app you can look it up now.

Mr. Burgess. And very good advice. And our trip out to your location, your fine people informed me that I had a problem with my vehicle, not the one I was expecting, but nevertheless, it was important information to have.

Now, unless people think that we just come here with assigned talking points and we never listen to each other, I also wanted to point out after your testimony here earlier in the year, that very time we were doing the appropriations bill for the Department of Transportation, and I did offer an amendment that night because of your testimony during the day that took \$4 million from the Secretary's general and accounting line item off the budget and moved it to your line item on the budget for additional safety work. And I think afterwards when I discussed with you, the offer still stands, I will be happy to discuss with you or even go with you to the appropriate Appropriations Subcommittee when the budget request is made to the Appropriations Committee next year,

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

because this is important.

Just one final observation and then I am going to go to Mr. Cardenas. In the inspector general's audit report, your response that is in the appendix to the auto report, your response to the things that were brought up I just wanted to highlight. One of the bullet points is use of a safety-systems approach to look for possible relationships between a symptom in one vehicle's system and a possible critical failure in another system.

And this is prior to your tenure, but last year, we were going through on another subcommittee the ignition problems on the Cobalt vehicles and the non-deployment of airbags, that being such a critical finding. It was of concern to me that this would appear in accident reports, albeit over a 10-year time span. And there weren't a large number, but nevertheless, any time a vehicle airbag non-deployment occurred, it seemed like that should be a seminal event and something which must be investigated.

And you even outlined here to consider if it is possible defect theories that do not fit with previously held assumptions, in other words, look for another reason other than something where you normally would. And I will never forget the accident report where there were two vehicles involved in a head-on collision. Unfortunately, it was not survivable in either vehicle, but in one vehicle the airbag goes off, the other it doesn't, and there

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

you have got the perfect test case. There wasn't a curb that was hit; there wasn't a tree that was glanced that would perhaps jar the ignition switch. It was a straight up head-on collision. One airbag works, one doesn't. Why did the one not work?

So I am grateful to see that line item in your discussion of the points that were brought up by the IG's report, and I think that is of critical importance.

I am going to yield to Mr. Cardenas 5 minutes for questions, please.

Mr. Cardenas. Thank you very much, Mr. Chairman. I appreciate this opportunity and want to thank the witnesses for being here to answer our questions.

Keeping in mind the millions of cars on our roads, keeping them safe is complicated and expensive, the draft we are looking at today does not address increasing funding for NHTSA, though many of its provisions would certainly present significant additional costs and responsibilities to the agency.

Dr. Rosekind, in your testimony today you said the failure to address gaps in NHTSA's available personnel and resources are a known risk to safety. Can you explain how civil penalties for violations of motor vehicle safety standards and other violations affect those gaps?

Mr. Rosekind. All of the penalties that are collected go

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

right to the U.S. Treasury, so we don't get any of those for our work.

Mr. Cardenas. Okay. So no matter how effective you are or even industry admits and/or forwards those penalties, there is no direct correlation between the amount of work that comes to your agency versus the amount of effective work that you are rendering?

Mr. Rosekind. That is correct. And the last time I appeared here I made this statement that if you gave us more resources, we could deliver more safety, and that equation is very clear. If you give us more demands without more resources, you get less safety.

Mr. Cardenas. Okay. Well, thank you.

This draft does not address raising the cap on civil penalties that NHTSA can seek for manufacturers for violation. The Vehicle Safety Improvement Act would eliminate that cap. In the past few years, there have been several widely publicized scandals surrounding the auto industry, and in 2014 alone, NHTSA issued more than 127 million in civil penalties.

Dr. Rosekind, 35 million sounds like a large amount of money, but we continue to hear about new egregious safety violations in the industry. In fact, NHTSA has had to be creative in finding ways to make penalties appropriate for the violations. And the

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

current maximum penalty, is that enough to be an effective deterrent?

Mr. Rosekind. No, and that is why in GROW AMERICA we suggested a \$300 million cap. No cap is good with us, too, but at least 300 million is what is proposed in GROW AMERICA to have a meaningful deterrent.

Mr. Cardenas. Now, if the \$35 million cap were significantly raised, what in your opinion would affect the expectation of how the behavior of automakers may or may not change?

Mr. Rosekind. I think our expectation would be, with appropriate deterrence like the civil penalties, that we would want to see a more proactive safety culture catch defects, conduct recalls earlier and faster.

Mr. Cardenas. Okay. Would raising the per-violation fine and eliminating the cap on civil penalties improve safety in your opinion?

Mr. Rosekind. That is the intent, and we think its current level is not the deterrent it should be.

Mr. Cardenas. And when was the last time that level was raised?

Mr. Rosekind. Good question. I will make sure that is in our technical assistance when we provide that to you, but it has

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

been a while so that the 35 million has basically been on the books for a long time.

Mr. Cardenas. So for years now?

Mr. Rosekind. Yes.

Mr. Cardenas. And the curve on activity or the volume of vehicles and the industry dollar amount value year to year, has been going up?

Mr. Rosekind. Absolutely. And if you are trying to make that distinction, yes, our authorities have stayed at a certain level while the number of vehicles -- we are at about 265 million on our roadways now -- the number of recalls, et cetera, is going this way while we have been staying this way. In fact, if you look at the budget, which we talked about last time I was here, really in sort of real dollars, we are down from where we were 10 years ago.

Mr. Cardenas. I constantly hear elected officials across the country talking about how we should run government more like a business. Does it seem like we are running your department like a business when you just described the amount of activity going up, the dollar amount in the industry going up, et cetera, yet your budget and your ability to create more safe activity is flat?

Mr. Rosekind. No. And I will make a personal comment, which I have sort of a different unique background having been



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

in academics and as a scientist, had my own business, which consulted with top 100 companies all over the world. And so I bring that perspective for efficiencies, effectiveness, measure things, et cetera, and it is one of the major frustrations basically of wanting to do more with, you know, not enough resources, people, money.

Mr. Cardenas. Well, I am of the opinion in this country that we are fortunate to take public safety for granted in so many ways. It is unfortunate that we are not fortifying you with the resources necessary to keep us as safe as you can.

Thank you so much. I yield back.

Mr. Burgess. The chair thanks the gentleman. The gentleman yields back.

And seeing there are no further Members wishing to ask questions for our first panel, I do want to sincerely thank both of our witnesses for being here today, for their time. This will conclude our first panel, and we will take a 2-minute recess to set up for the second panel.

Ms. Schakowsky. Yes, thank you to both our witnesses.

Ms. Mithal. Thank you.

[Recess.]

Mr. Burgess. Welcome back. Thank you all for your patience and taking time to be with us here today. We will move into our

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

second panel for today's hearing. We will follow the same format as during the first panel. Each witness will be given 5 minutes for an opening statement followed by a round of questions from Members.

For our second panel we have the following witnesses: Mr. Mitch Bainwol, the President and CEO of the Alliance of Automobile Manufacturers; Mr. John Bozzella, President and CEO of Global Automakers; Mrs. Ann Wilson, Senior Vice President at the Motor & Equipment Manufacturers Association; Mr. Greg Dotson, Vice President for Energy Policy at the Center for American Progress; Ms. Joan Claybrook, former Administrator of the National Highway Traffic Safety Administration; Mr. Peter Welch, President of the National Automobile Dealers Association; and Mr. Michael Wilson, the CEO of the Automotive Recyclers Association.

We do appreciate all of you being here with us this morning. We are grateful for your forbearance during the first panel. We will begin this panel with Mr. Bainwol, and you are recognized for 5 minutes for your opening statement, please.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

STATEMENTS OF MITCH BAINWOL, PRESIDENT AND CEO, ALLIANCE OF AUTOMOBILE MANUFACTURERS; JOHN BOZZELLA, PRESIDENT AND CEO, GLOBAL AUTOMAKERS; ANN WILSON, SENIOR VICE PRESIDENT, MOTOR & EQUIPMENT MANUFACTURERS ASSOCIATION; GREG DOTSON, VICE PRESIDENT FOR ENERGY POLICY, CENTER FOR AMERICAN PROGRESS; JOAN CLAYBROOK, FORMER ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION; PETER WELCH, PRESIDENT, NATIONAL AUTOMOBILE DEALERS ASSOCIATION; AND MICHAEL WILSON, CEO, AUTOMOTIVE RECYCLERS ASSOCIATION

STATEMENT OF MITCH BAINWOL

Mr. Bainwol. Thank you, Chairman Burgess, Ranking Member Schakowsky, and members of the subcommittee. Given the size of this panel, I am reminded of what former Senator John Warner said when he became Elizabeth Taylor's sixth husband. He said I know what to do; I am just not sure how to make it interesting. So here I go.

Thank you for the opportunity to testify today on behalf of 12 global OEMs based in the U.S. in Europe and in Asia. Our companies represent about 75 percent of the marketplace. Our industry will put about a billion, a billion new cars on the road over the next decade around the world with more than 15 percent of those here in the U.S. That is a lot of steel and a lot of

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

aluminum and an astounding level of production with massive job and economic implications. But even more striking than scale is the game-changing innovation mobility that will generate enormous social benefits.

Our companies are investing about \$100 billion a year in research, including the development of the next generation of connected-vehicle technologies. These technologies will save lives, save fuel, and enhance mobility.

Over the last decade, your House colleagues at T&I have invested substantial highway dollars to make smart vehicles and infrastructure a reality. The bill they markup tomorrow includes an additional \$175 million over the next 6 years.

They are making this investment for an important reason, and that is because congestion wastes roughly 3 billion gallons of fuel, 27 million metric tons of CO2 emissions every year. The Federal Highway Administration estimates that roughly 12.5 percent of congestion, 12.5 percent of congestion, 3 million metric tons is directly, directly attributable to crashes. Thus, there is a direct link between reducing crashes and reducing CO2 emissions.

But for this subcommittee, the focus is the potential of this technology to save lives. Crash-avoidance and connected-vehicle technologies offer us the opportunity to address the 94 percent,

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

if not more, of all accidents that NHTSA attributes to driver error. That is right, addressing driver error is absolutely crucial.

You know the statistics. More than 32,000 people died in car crashes last year, far too many. That number is 25 percent below what it was a decade ago, but it is still far too many.

NHTSA has said that connected vehicles have the potential to mitigate as much as 80 percent of non-impaired crashes. And just last week, the Boston Consulting Group released a study that Ann Wilson will talk about showing that advanced driver-assist systems could prevent almost 10,000 fatalities and 30 percent of all crashes occurring annually in the U.S.

We should all share the goal of deploying these technologies as soon as possible. How can we not? It is why the modest incentives -- and they are modest -- included for advanced automotive technologies does make sense. A connected car with crash-avoidance technologies is safer and cleaner. It is not a trade-off. It is a convergence of interest. This hominization of safety and environmental gains that these technologies offer changes the policy paradigm. It calls upon all of us to determine how we can accelerate the integration of these technologies into the fleet to improve safety, environmental, and productivity outcomes.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

So we applaud this committee for introducing the notion of market incentives to save lives. If passed, the potential of this legislation to prevent tragedies is very real, and the impact on greenhouse gas emissions is also equally real.

While the benefits of the new technologies are profound, connectivity and data also introduce new challenges, including privacy and cybersecurity. We commend the committee for generating new proposals here as well.

Last year, the industry became the first non-internet sector, the first non-internet sector to issue consumer privacy protection principles that build off of the well-established FIPS and include heightened protection for the most sensitive consumer information: where and how you drive. And what we did was a floor for companies.

We are also moving aggressively on cybersecurity. As this committee knows, automakers will soon stand up the Information Sharing and Analysis Center, the ISAC, to facilitate sharing of potential cyber threats and countermeasures in real time in. Yet we hear you loud and clear. We do hear you loud and clear. Even before the introduction of this draft, we know that you wanted us to move further. So we are now moving forward with the best practices initiative as well so that we have a fully integrated approach to addressing hacking risks.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

The future of mobility is extremely bright. We are on the precipice of a golden era of mobility. Technology will make all this happen. It will enable safety outcomes, more environmentally friendly travel, and an economy that is more productive because people and goods will be able to move much more efficiently around the country.

This committee has started this conversation about the future of mobility in earnest. We look forward to working with you to build this new reality.

[The prepared statement of Mr. Bainwol follows:]

\*\*\*\*\* INSERT 5 \*\*\*\*\*

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Burgess. The chair thanks the gentleman. The gentleman yields back.

Mr. Bozzella, you are recognized for 5 minutes for questions, please.



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

STATEMENT OF JOHN BOZZELLA

Mr. Bozzella. Mr. Chairman, Ranking Member Schakowsky, members of the subcommittee, thank you very much for the opportunity to testify today. I am John Bozzella, President and CEO of Global Automakers. Mr. Chairman, thank you for your thoughtful work on motor vehicle safety and for holding this hearing today.

Our industry has been in the news a great deal lately and not always for the best of reasons. This hearing gives us the chance to discuss our ongoing efforts to improve motor vehicle safety and enhance public trust through the research and development of new technologies.

The draft bill released last week contains a number of important ideas designed to advance our shared goal of improved motor vehicle safety. We appreciate the subcommittee's commitment to improving recall completion rates and exploring innovative ways to address new and emerging challenges associated with the development of vehicles that not only actively avoid collisions, but talk to one another and to the surrounding infrastructure.

In the time available, I will focus on three important issues: 1) recall notification during vehicle registration; 2)

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

adoption of connected-car technology; and 3) industry efforts to stay ahead of privacy and cybersecurity challenges.

Consumers should be informed of the recall status of their vehicles. Global Automakers believes an effective way to achieve this end is to use state DMV offices to notify vehicle owners of open recalls at the time they register or renew their registration. We now have some initial data that suggests there is public support for this approach. In a recent survey commissioned by Global Automakers and the Alliance of Automobile Manufacturers, we looked at how consumers respond to and think about recall notices and found overwhelming support for the idea of receiving recall information from the DMV. Over 70 percent of those asked about this issue supported not only notification at registration, but a requirement that recalls be remedied prior to registration. More research needs to be done, but these initial results indicate that the subcommittee is moving in the right direction as it explores ways to increase recall completion rates

We are also pleased that the draft bill recognizes the substantial benefits associated with the installation of dedicated short-range communications, or DSRC devices, that allow cars to communicate with each other and the surrounding infrastructure, leading to fewer crashes, less congestion, and

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

other potential benefits. NHTSA agrees that this technology could be a "game-changer" potentially addressing 80 percent of vehicle crashes involving non-impaired drivers. Encouraging the fastest deployment possible of DSRC will spread the benefits of this lifesaving technology more quickly and more widely.

The enormous benefits of connected-car technologies outweigh the challenges that come with living in a connected world. As automakers pursue these innovations and the benefits that they bring, we recognize strong cybersecurity and privacy protections are essential to building consumer confidence.

To ensure the security of safety-critical driving systems and to protect the privacy of consumer data, we have begun establishing industry-wide cybersecurity best practices. These best practices will allow automakers the flexibility to quickly and effectively respond to the dynamic nature of cyber challenges. This builds on steps we have already taken, such as the creation of industry privacy principles to protect consumer information and the launch of the Automotive Information Sharing and Analysis Center, or Auto-ISAC, to share intelligence on immediate threats and vulnerabilities.

Last year, U.S. automakers took unprecedented steps to protect the privacy of consumers through the responsible stewardship of information collected from in-vehicle

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

technologies and services and the meaningful disclosure of privacy principles and practices. We engaged with privacy advocates and the Federal Trade Commission during the development of these principles. As early as January of 2016, all major auto manufacturers will be accountable to the FTC for these privacy commitments. We have questions about how the privacy provisions outlined in the bill would interact with the commitments that have already been made by automakers.

In August, U.S. automakers incorporated the Auto-ISAC. The Auto-ISAC will enable secure and timely sharing of cyber threat information and potential vulnerabilities in vehicle electronics or networks. By the end of the year, we expect the ISAC infrastructure to be fully operational.

Cybersecurity challenges in the Internet of Things are not unique to automakers. Any approach to address cyber threats should be consistent with approaches used in other industries.

Thank you again for the opportunity to appear before you today. I am happy to answer any questions you may have.

[The prepared statement of Mr. Bozzella follows:]

\*\*\*\*\* INSERT 6 \*\*\*\*\*

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Burgess. The chair thanks the gentleman.

Ms. Wilson, you are recognized for 5 minutes, please, for an opening statement.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

STATEMENT OF ANN WILSON

Ms. Ann Wilson. Thank you. Chairman Burgess, Ranking Member Schakowsky, members of the subcommittee, my name is Ann Wilson. I serve as the Senior Vice President of Government Affairs for the Motor & Equipment Manufacturers Association. Thank you for the invitation today to testify about motor vehicle safety issues.

MEMA represents more than 1,000 companies that manufacture components and systems for use in the light- and heavy-duty vehicle original equipment and aftermarket industries. Our members provide more than 734,000 direct jobs nationwide, making the motor vehicle parts industry the largest employer of manufacturing jobs nationwide.

Suppliers work closely with vehicle manufacturers to provide cutting-edge and innovative systems and components for new vehicles. In fact, suppliers manufacture more than 2/3 of the value of today's vehicles.

Today, I will focus on the safety benefits of advanced driver assistance systems, or ADAS. These technologies are included in the discussion draft in the term Advanced Automotive Technology.

As is widely recognized and as has been previously discussed, motor vehicle safety continues to improve in this country. The

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

most influential safety factors are improvements to vehicles' structural design and advanced vehicle technologies, including ADAS. MEMA recently published, as Mr. Bainwol discussed, a study prepared by the Boston Consulting Group on the benefits of ADAS technologies. A complete copy of the study has been circulated to all the committee members.

The MEMA study focused on current technologies that can provide immediate safety benefits and form the pathway to a partially or fully autonomous vehicle fleet that could virtually eliminating traffic fatalities. However, the study did find that a suite of ADAS technologies that are currently available have the potential to prevent 30 percent of all crashes nationwide, a total of 10,000 lives saved every year.

Today, however, relatively few vehicles on the road have ADAS technologies, and their penetration in the market is only growing about 2 to 5 percent annually. Since the vast majority of accidents in the U.S. are caused by driver error, the lack of adoption of these technologies within the U.S. fleet is a significant missed opportunity.

I would like to take a minute and discuss exactly what ADAS is. They can be grouped into three broad categories: those that aid the driver, those that warn the driver, and those that can assist the driver in performing certain basic driving functions.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Aid features include visual aids such as night vision, rear-mounted cameras that enhance the driver's rear vision, and adaptive lighting and surround-view systems.

Warn features alert the driver of potential dangers. Examples include park assist, forward collision warning, lane departure warning, which typically activates a beeper or causes the driver's seat to vibrate when the vehicle drifts out of its lane. Other warning systems include blind spot and rear cross-traffic detectors and driver monitoring systems.

Assistance features actively engage steering, acceleration, and/or braking systems as is needed in order to ensure the vehicle's safe operations. Such features include forward collision assist, adaptive cruise control, self-parking, and lane-keeping assist, which actively returns the vehicle to its original lane when it is in danger of drifting from it. There is also pedestrian avoidance, which warns the driver of an impending collision with a pedestrian, and in some instances will assist the driver with steering and braking to avoid that collision.

Better consumer information and education, as well as market incentives, will increase the adoption and lower the cost of these technologies, and MEMA supports the efforts of this committee to promote ADAS technologies through the expansion of the New Car



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Assessment Program and advanced credits for fuel economy and greenhouse gas emissions.

We do have the following comments on the committee draft: In Title V, Section 501, suppliers must be specifically included in the Advanced Automotive Technology Advisory Committee.

Furthermore, we believe the 35-percent threshold specified for inclusion of the technology on the Monroney label is too high. Collision avoidance systems are currently available, and if they are in new vehicles, they must be listed in the NCAP rating as part of all new vehicle labels.

In Section 502, MEMA supports awarding credits for advanced technologies for fuel efficiency and greenhouse gas emissions. The use of these technologies will result in better traffic flow, less fuel consumed, and fewer vehicle emissions. However, there should not be a difference in the credits for vehicles with at least three advanced safety technologies and vehicles with one connected vehicle technology.

MEMA thanks the committee on its foresight to provide greater consumer acceptance of ADAS technologies. The industry is committed to working with you to establish new and innovative ways to increase the adoption of these life-saving technologies and to address other critical issues.

Thank you.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

[The prepared statement of Ms. Ann Wilson follows:]

\*\*\*\*\* INSERT 7 \*\*\*\*\*

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Burgess. The chair thanks the witness.

Mr. Dotson, you are recognized for 5 minutes for the purpose of an opening statement, please.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

STATEMENT OF GREG DOTSON

Mr. Dotson. Thank you. Chairman Burgess, Ranking Member Schakowsky, and members of the subcommittee, thank you for the opportunity to testify today. My name is Greg Dotson. I am Vice President for Energy Policy at the Center for American Progress, a nonprofit think tank dedicated to improving the lives of Americans through progressive ideas and actions.

The auto manufacturing industry touches the lives of all of us. Many Americans rely on their cars and trucks to get to work, to do their jobs, to transport their families safely. For these reasons, the industry is regulated in a number of vitally important ways: to minimize the risk of accidents, to minimize our dependence on oil, and to prevent pollution from choking our communities. The result is that today's vehicles have attributes once believed to be incompatible. They are safer, more efficient, and less polluting.

Today, I am going to focus my testimony on Sections 502 and 503 of the discussion draft. I have provided a lengthier statement for the record, but I would like to highlight the five important reasons that these sections are flawed.

First, the discussion draft presents a false choice by asking Members of Congress to choose vehicle safety over pollution

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

reduction. That is an unnecessary tradeoff. The fact is that we need both safer motor vehicles and cleaner cars and trucks, and there is no reason the American people can't have both.

Second, there is not a sound analytic basis for the proposal. The bill would encourage automakers to use this technology by giving them pollution credits for every car they manufacture with crash-avoidance technology like automatic emergency braking or technology that helps with congestion mitigation like an in-dash GPS. Unfortunately, there just isn't sufficient data to support these pollution credits.

In 2012, the Environmental Protection Agency and the Department of Transportation examined this issue. The automaker Daimler had argued that the agency should provide pollution credits for crash avoidance technology. The agency said that credits should only be awarded where the technologies provided real-world improvements to fuel economy and pollution reduction, the improvements must be verifiable, and the process by which they are granted should be transparent.

The agencies determined that none of these factors were satisfied for technologies used for crash avoidance. Consequently, the agencies concluded that the advancement of crash-avoidance systems is best left to NHTSA's exercise of its vehicle safety authority.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

The discussion draft would reverse this conclusion. Under this proposal, Section 502(a) provides a credit of 3 or more grams of carbon dioxide per mile to any vehicle that is equipped with an advanced vehicle technology. The bill also offers a credit of 6 or more grams of carbon dioxide per mile to any vehicle that is equipped with connected-vehicle technology. Three grams might not sound like a lot, but it is many times more than Daimler argued to EPA was warranted for this technology in 2012.

And although EPA is still in the process of determining the extent of Volkswagen's violations, in all the publicly discussed estimates, the excess pollution from the non-complying VW vehicles is less than 3 grams per mile. The fact is 3 grams per mile for every mile every day for every year for every car adds up to substantial pollution.

Third, the discussion draft would allow more pollution for using technologies that are going to be used even without this additional incentive. For instance, just last month, 10 major vehicle manufacturers publicly committed to making automatic emergency braking a standard feature in all new vehicles. It makes no sense to give these companies an incentive for something they intend to do anyway.

Fourth, the loopholes created by this bill could only grow bigger over time. Section 503(a) would authorize the Secretary

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

of Transportation to select any technology and award that technology as many pollution credits as necessary to "incentivize" its adoption. There is no upper-bound limit on how many credits might be awarded under this language.

Finally, the bill, as currently drafted, would curb the role of States in innovating carbon pollution reductions at the state level. As we have seen time and again, the States are the laboratories of innovation. They have demonstrated countless successes, and there is no basis for so easily stripping them of their important role. We should remember that it was the State of California that led the way in detecting the VW emissions scandal.

Mr. Chairman, Ranking Member, and members of the subcommittee, it has not been easy for the United States to establish a regulatory structure that is transparent, data-driven, technology-based, and effective. I urge you to reject pleas for new special-interest loopholes and maintain our current rigorous system. The American people expect a regulatory system that cuts pollution and increases safety. Let's not sacrifice one for the other.

And I would be happy to take any questions you have.

[The prepared statement of Mr. Dotson follows:]

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

\*\*\*\*\* INSERT 8 \*\*\*\*\*



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Burgess. The chair thanks the gentleman. The gentleman yields back.

Ms. Claybrook, you are recognized for 5 minutes for your opening statement, please.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

STATEMENT OF JOAN CLAYBROOK

Ms. Claybrook. Thank you very much, Mr. Chairman and Ranking Member Schakowsky and members of the subcommittee.

I am Joan Claybrook, Consumer Co-chair of Advocates for Highway and Auto Safety and former Administrator of NHTSA. I appreciate the opportunity to testify before you today on such an important issue, the safety of our families and friends on our nation's roads and highways.

Let me share with you some important statistics as you begin considering this bill: 33,000 deaths and over 2 million horrible injuries annually in motor vehicle crashes; 801 manufacturer recalls and service campaigns of more than 63 million vehicles in 2014; 613 recalls already in 2015 involving 40 million vehicles. For these recalls, at least 200 people innocently killed and hundreds injured because automakers sold cars they knew had safety defects.

House and Senate hearings -- there are 10 of them over the last 2 years -- on faulty GM ignition switches and exploding Takata airbags where I heard countless hours of testimony and indignation expressed by committee members. Over 2 billion in criminal justice -- that is, Department of Justice and civil fines -- against recalls since 2010 because of the NHTSA enforcement and

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Justice enforcement; total NHTSA safety budget, a measly \$130 million a year, a measly 130 million.

Eleven family members sitting behind me today and millions of Americans expect their legislators to enact sensible solutions for serious safety problems, one opportunity to get it right.

Congressional hearings, media reports, and DOT inspector general reports have all uncovered industry misconduct and NHTSA missteps that put millions of Americans at risk on the highway. The outstanding problems that need legislation that addresses them are: a chronically underfunded and understaffed agency responsible for regulating giant corporations and ensuring public safety; a lack of adequate civil and criminal penalties to deter automakers from putting profits before public safety; a predisposition by NHTSA to needlessly withhold information from consumers about vehicle safety problems that thwarts their ability to legally challenge the agency actions -- all that is now changing under Mr. Rosekind; thank you -- a legal loophole that allows consumers to drive off the lot of a rental car company or a used-car dealer with a vehicle under recall but not repaired; and agency powerlessness to take swift action when there is imminent hazard.

The draft bill will set a safety agenda for the agency for the next 6 years. At a time when motor vehicle deaths and injuries

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

are climbing, stronger safety standards are urgently needed. Serious problems have been exposed and new challenges face the agency.

What does this bill do to enhance safety and equip the agency with the legal and financial tools to fulfill its safety mission? Very little. Instead, it seriously dilutes critical vehicle emission controls and wastes taxpayer dollars by turning NHTSA into the National Highway Traffic Study Administration. The bill diverts precious government resources to conduct at least 16 burdensome studies and reports and put the auto industry in the driver's seat on vehicle safety at the expense of public safety.

Under the draft bill, automakers can barter and trade off fuel economy and safety when we know the technologies exist to build safe, fuel-efficient, and clean cars. Other provisions delay public notification of recalls until NHTSA is in receipt of all the vehicle identification numbers subject to the recall, and NHTSA is required to draft its notice of a safety defect and noncompliance in coordination with the manufacturer, something that a regulator should not be limited to.

The bill provides a blanket exemption for motor vehicle safety standards for replica and other vehicles intended for testing and evaluation, and these giveaways are unnecessary because NHTSA already has a regulatory process to do this in the

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

law.

Furthermore, the draft bill provides a breathtaking double standard for manufacturers at the expense of consumers. And Section 406 mandates that industry failure to follow DOT voluntary guidelines cannot be used as evidence in a civil action. However, industry may use compliance with those same guidelines to show compliance with federal regulations in the same civil action.

The real intention of these and other provisions setting up industry-stacked advisory committees and councils are not to advance safety but to thwart NHTSA from regulating industry and to keep the public out.

Problem-solving proposals to the problems identified by the hearings that you have heard again and again are found in H.R. 1181 that has been introduced by Ranking Member Frank Pallone and Subcommittee Ranking Member Jan Schakowsky. It is a comprehensive approach that includes tougher penalties, eminent hazard authority, improved transparency, pedestrian safety measures, prohibitions on renting vehicles or selling used cars under recall, judicial review of final agency actions on recalls, and revolving-door protections, and an overdue direction to the agency to address the tragedies of unattended children left behind in a vehicle, and some 200 of them die a year.

Unless this committee acts to pass meaningful legislation

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

that will prevent illegal and immoral behavior by the auto industry, this string of scandals will continue: Firestone tires, Toyota sudden acceleration, GM faulty switches, Takata exploding airbags, and now cheating VW cells. There are no credible excuses for delaying any longer the adoption of consumer protections, increased penalties for corporate misbehavior, strengthening NHTSA's authority and resources, and improve vehicle safety standards that can really save lives and reduce injuries and prevent industry fraud.

Thank you so much for the opportunity.

[The prepared statement of Ms. Claybrook follows:]

\*\*\*\*\* INSERT 9 \*\*\*\*\*

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Burgess. The chair thanks the gentlelady. The gentlelady yields back.

Mr. Welch, you are recognized for 5 minutes, please, for an opening statement.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

STATEMENT OF PETER WELCH

Mr. Welch. Mr. Chairman, Ranking Member Schakowsky, my name is Peter K. Welch, not to be confused with anybody else, and I am the President of the National Automobile Dealers Association. NADA is a nationwide trade association that represents the interests of over 16,000 franchised new car and truck dealers throughout the country.

The draft bill before you today contains a number of provisions NADA supports, including several provisions to improve recall notification and completion rates. Dealers support a 100 percent recall completion rate. And again, we commend the subcommittee for its efforts to help us achieve that goal.

The recall system Congress enacted depends on new car dealers to fix the millions of vehicles that are now under recall. Last year alone, our members performed 59 million warranty and recall repairs, and unfortunately, we are set to break that record again today with the burgeoning number of recalls that are being issued.

For the owners of recalled vehicles, it is their local dealer who remedies the defect or nonconformance and at no charge to the owner. When owners receive a recall notice but fail to act, many dealers on their own initiative will contact their customers to schedule a service appointment. One of our Texas dealer members



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

found that sending bright pink postcards reminding owners that their vehicles were under recall is an effective way to get those cars into the service bay and to get them fixed.

Currently, the overall recall completion rate is around 75 percent, which means there is lots of room for improvement.

Back-ordered repair parts and recall notices that are disregarded by consumers are the two main reasons that the completion rates lag. It is not unusual for a dealer to wait 60 days or more for a back-ordered recall repair part. In some instances, repair parts can be unavailable for over a year. I don't know of any dealer who isn't eager to remedy a recall vehicle and make a customer happy, but they need repair parts to do that

Inaction by consumers after receiving a recall notice also hinders completion rates. One idea NADA has suggested to NHTSA at its April recall workshop was for NHTSA to launch a media campaign targeted to those demographic groups that are less likely to respond to recall notices. We ask the subcommittee to consider that idea.

Improving NHTSA's recall database and lookup tool is another way to boost the recall completion rate. The current system was designed for single-vehicle lookups by consumers. It was not designed for commercial use. Depending on its size, the dealer can have dozens to thousands of used vehicles in its inventory.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

This bill should include a provision directing NHTSA to upgrade its recall database to allow dealerships to automatically check on a daily basis which used vehicles in their inventory are under open recall. A tool that is searchable, automated, and can batch multiple requests is critical to identifying open recall vehicles in a dealer's inventory in getting them fixed.

We also support Section 203, which would provide notification by state DMV of a recall at the time of registration renewal. It is all about notification and awareness, and we think that this is a good idea to help increase the remedy rate.

Section 205 would extend the period for which cars could be recalled from 10 to 15 years. With the average vehicle on the road today at 11.5 years, this provision also makes sense.

In conclusion, Congress must ensure that any new recall policy it enacts is data-driven. The most successful highway safety policies such as enactment of primary safety belt laws and anti-drunk driving measures were all based on hard data and now are proven countermeasures. We commend the subcommittee for its hard work and stand ready to work with you on strong safety measures that will protect America's driving public.

Thank you, and I look forward to answering any questions.

[The prepared statement of Mr. Welch follows:]

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

\*\*\*\*\* INSERT 10 \*\*\*\*\*

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Burgess. The chair thanks the gentleman.

Mr. Wilson, you are recognized for 5 minutes, please, for an opening statement.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

STATEMENT OF MICHAEL WILSON

Mr. Michael Wilson. Chairman Burgess, Ranking Member Schakowsky, members of the subcommittee, thank you very much for the opportunity to testify. I am Michael Wilson, CEO of the Automotive Recyclers Association.

The Association is dedicated to the efficient removal and reutilization of genuine original equipment automotive parts and the proper recycling of inoperable motor vehicles. ARA represents the interests of over 4,000 automotive recycling facilities in the United States who each day sell over 500,000 recycled parts directly to consumers, mechanical shops, collision repair shops and automobile dealers.

These quality, recycled original equipment parts are designed by automakers and built to meet their requirements for fit, finish, durability, reliability, and safety. These parts are often reutilized in the repair and service of vehicles throughout their lifespan, and these replacement parts continue to operate as they were originally intended in terms of form, function, performance, and safety.

I urge Congress to add language to the subcommittee's draft legislation that would provide the automotive recycling industry access to critical original equipment parts data on all motor

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

vehicles. The critical data includes part numbers, names, and descriptions tied to each vehicle's specific vehicle identification number.

The straightforward reason that this information is necessary is because manufacturers and dealers in the automotive industry speak a totally different parts language than those in the auto recycling community. Automakers and dealers utilize original equipment part numbers, while automotive recyclers have historically utilized Hollander Interchange part numbers.

The Hollander Interchange enables automotive recyclers and enthusiasts to identify and find parts they need to keep their vehicles running and in original condition. The Hollander Interchange indexes millions of parts and their interchangeable equivalent from other vehicles, for example, a specific part that is in a Ford F-150 is also interchangeable with the same part in a Ford Expedition, a Mercury Mountaineer, or a Lincoln Navigator.

It is only through the utilization of both original equipment part numbers and the Hollander Interchange part numbers that automotive manufacturers and recyclers can come together to enhance overall motor vehicle safety, help improve recall remedy rates, and comply with the federal recall remedy statute for used equipment enacted 15 years ago in the TREAD Act.

First, I would like to address the challenge automotive

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

recyclers face in identifying automakers' non-remedied defective parts in their current inventory. Regrettably, the TREAD Act, MAP-21, and their respective rulemakings did not compel the automakers to provide essential parts data, making it functionally impossible for used replacement part stakeholders to comply with the federal statute.

Automakers are fully aware that the lifecycle of their parts can go beyond the initial utilization in a motor vehicle from the factory. This recognition was underscored in August 2014, when General Motors contracted with a third-party supplier to coordinate the purchase and return of certain used parts, which are subject to a product safety ignition switch recall from automotive recycling facilities.

In a third-party notice to recycling facilities, the correspondence not only included the make, model, and year of the vehicles subject to the recall but also detailed the specific GM part and the ACDelco service part numbers, which the notice stated, "are provided so the manager can identify the parts being recalled." The notice also included the Hollander Interchange number for ignition switches. Clearly, GM understands that specific part numbers are vital to correctly and efficiently locate the affected parts.

In NHTSA's current SaferCar.gov site, individuals or

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

companies who sell a significant number of vehicles or parts do not have the multiple VIN lookup capability to necessary information and are severely limited by objections to allowing electronic integration of important data to enhance safety. Just as problematic is the data provided by the automakers through safercar.gov is many times a recall narrative rather than actual part numbers, names, or descriptions, making it all but impossible to identify specific recalled parts electronically.

It is essential that our recyclers be able to electronically identify those parts associated with VINs which have been recalled and not remedied before vehicles are potentially purchased at auction or acquired from the general public. If the automakers provide access to parts data, it will allow the recycling community to comply with its obligations under the TREAD Act, and can help protect our nation's drivers from the manufacturers' defective parts.

While some automakers may concede to the need for providing the original equipment data for their defective parts, it is important to understand this is not enough. The number of defective automotive parts in today's marketplace is increasing at alarming rates. In fact, some 100 million vehicles have been recalled since the beginning of 2014. These recall campaigns create multiple challenges for my members who provide safe and



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

quality recycled original equipment parts to the marketplace.

Also consider the original equipment parts that automotive recyclers sell today and are subject to a recall at some future date. If automotive recyclers don't have access to all original equipment parts data, there is no specific part number to track it going forward if there is a subsequent recall on that part.

Most agree that the private sector has developed or has the potential to develop highly effective solutions to the vehicle and the part identification, along with the remedy-tracking problem. However, these systems would only be as good as the data the companies have access to and are able to provide to the affected parties. Unfortunately, IIHS and other data providers currently do not have access to part numbers, descriptions, and other important data needed to track recalled parts and to significantly increase recall remedy rates.

Automakers are accountable for the safety of all original equipment parts throughout their lifecycle and should be required to share whatever parts information is necessary to identify and locate recalled defective parts within the recycled original equipment parts population. The practice of sharing original equipment part numbers with recyclers should not be an anomaly. Rather, it should be a standard automotive industry practice, especially in light of the new safety norm.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Consumer demand for a safe and vibrant replacement parts market makes it imperative that Congress include language that would require automakers to remove the barriers they have constructed so that all parts data is available to the professional automotive recycling industry.

Thank you.

[The prepared statement of Mr. Michael Wilson follows:]

\*\*\*\*\* INSERT 11 \*\*\*\*\*

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Burgess. The chair thanks the gentleman, and thank all of you for your testimony. We will move into the question-and-answer portion of the hearing, and I will begin that by --

Mr. Butterfield. Mr. Chairman, I have a unanimous consent request.

Mr. Burgess. The gentleman may state his request.

Mr. Butterfield. Yes, I am preparing to chair a meeting in just a few minutes with 45 Members. May I submit my questions for the record and have the witnesses respond later in writing?

Mr. Burgess. The gentleman certainly understands there is a lot of Members who are wanting to ask questions, but I would be prepared to yield to the gentleman to go first for his questions if you would like.

Mr. Butterfield. You are very kind, and I can talk fast.

Mr. Burgess. Proceed. The gentleman is recognized.

Mr. Butterfield. Ms. Claybrook--

Mr. Burgess. And I will hold off all the other Members.

Mr. Butterfield. You are very kind. Thank you.

Ms. Claybrook, thank you for coming. Ms. Claybrook, as you know, I have worked closely with Lois Capps and Ms. Schakowsky and others on rental car safety legislation. In fact, in May we introduced 2189, the Raechel and Jacqueline Houck Safe Rental Car

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Act of 2015. I am disappointed that the text of that bill was not included in the base text of the safety title, but it was included in the bill that the Senate is working on. Do you share in my disappointment in any way that the text of 2189 was not included as a part of the title?

Ms. Claybrook. I certainly do. And as you heard Administrator Rosekind, he does, too. We believe that all cars that have been subject to recall, whether new cars or used cars or rental cars, should all be fixed immediately.

Mr. Butterfield. Thank you. Why is enacting a federal standard with regard to rental car safety so important?

Ms. Claybrook. Well, it is important because it causes death and injury on the highway for unsuspecting owners or renters, and that is the bottom line is safety on the highway.

Mr. Butterfield. And to the best of your knowledge, do the vast majority of rental car companies support a federal rental car safety standard?

Ms. Claybrook. That is my understanding; the vast majority do. And the public does overwhelmingly.

Mr. Butterfield. Okay. Is there anyone on the panel that would dispute that?

[Nonverbal response.]

Mr. Butterfield. Consumers for Auto Reliability and Safety

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

and the Consumers Union and the Consumer Federation of America, AAA, and the American Rental Car Association all support 2189, and they have called on this committee to move the bill either on its own or as part of a larger package. Do you agree or disagree?

Ms. Claybrook. Oh, I completely agree. And warning is not enough, by the way. The car has to be fixed. The vehicle has to be fixed.

Mr. Butterfield. All right. And finally, for Mr. Welch, thank you very much, Mr. Welch, for coming, and you certainly know we have a Member named Peter Welch from Vermont.

Your association, Mr. Welch, believes that we should focus more on fixing recalled rental cars instead of grounding them. It seems to me that the rental companies have every incentive to repair a grounded vehicle and get it back on the road as soon as possible. And so I would think that a requirement to ground an unrepaired vehicle would actually speed up the repair rate. As you know, federal law already requires new recalled cars to be grounded until they are fixed. Do your members prefer to fix these new recalled cars quickly or simply have them to sit on the lot?

Mr. Welch. Well, of course our members are the ones that perform the vast majority of recall fixes and remedies across the

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

country.

With respect to the rental car bill, we are supportive of the premise behind the bill that vehicles that are unsafe to drive should not be put into the hands of the public. Our issues with that bill is the definition of when is it unsafe to drive a vehicle and differentiating between recalls that would not render a vehicle unsafe to drive, as determined by either NHTSA or the original equipment manufacturer of the vehicle. And I think we could have lots of discussions and hope to have discussions on drawing a clear, bright line on when a vehicle is unsafe to drive to distinguish it, for instance, between those types of recalls that would not affect the safety of driving the vehicle.

We have a number of other issues. I can get into it if you want, but in the interest of time, specific provisions on that bill, for instance, it is overly broad because it paints all of these vehicles with the same brush. We think it is unfair to small businesses. Eighty percent of our members are small businesses. It treats our members the same. If I have five vehicles in a loaner fleet, for instance, I am subject to the same penalties and fines that Hertz and Avis is. So there are a number of issues.

Mr. Butterfield. Do you think that rental companies would have the same incentive to repair?

Mr. Welch. Well, of course that raises another issue, and

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

that is the fight for parts. As I mentioned before, the only that is holding us back from fixing any vehicle that comes onto our lot is the availability of parts, and we have commissioned some research on that. And the average delayed part on trade-in vehicles, for instance, is 60 days. And we have some concern that the rental car companies might get in a tug-of-war with the manufacturers for the availability of parts that may adversely affect our customers that are coming in to get their vehicles repaired.

Mr. Butterfield. Thank you. Thank you very much, Mr. Welch.

Ms. Claybrook. Mr. Chairman, could I comment on one thing?

Mr. Butterfield. Yes?

Ms. Claybrook. Could I comment on one thing? It seems to me that in terms of whether the car is safe to drive that the manufacturer has already made that decision. When they do a recall, they are saying this is a safety issue and this car needs to be fixed. And there are very few cars that are unsafe when they are not driven. So it seems to me that the manufacturer has already made that decision, and it is not up to somebody else to decide, NHTSA or anybody else to decide whether or not it is safe to drive that.

Mr. Welch. If I could respond to that?

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Butterfield. All right.

Mr. Welch. The manufacturers and NHTSA do in fact issue stop-drive notices, and it is about 6 percent of the recalls that they do stop-drive. And I understand that there could be a dispute between, you know, whether it ought to be 8 percent or 10 percent or 40 percent or whatever. Again, you know, we are the monkey in the middle. The car dealers, we are there looking for parts to fix the cars. But there is a big difference between, for instance, you know, a mislabel -- and I don't want to be trite in any way, shape, or form, characterize any violation of a statute subject a vehicle to recall but there--

Ms. Claybrook. When would you fix it? So you don't want to fix it today because it is okay to drive it with a bad label. When are you going to fix it? Are you going to fix it --

Mr. Butterfield. Well, maybe some of the other Members will --

Mr. Welch. As soon as the part is available, it will get fixed so they --

Mr. Butterfield. The chairman was so kind--

Mr. Burgess. And I will reclaim --

Mr. Butterfield. -- to yield to me and I --

Mr. Burgess. I will reclaim the time. The dais will ask the questions.



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Butterfield. Thank you, Mr. Chairman. Thank you so very much.

Mr. Burgess. Thank you, Mr. Butterfield. And good luck with your meeting.

I will now recognize myself for 5 minutes for questions. So that was an interesting exchange.

Let me just ask Mr. Bainwol about this ISAC, the gathering of data. What is the mechanism for disseminating information back then to your members or anyone else involved?

Mr. Bainwol. The ISAC, again, which will be stood up in a matter of weeks -- I think today an announcement went out with the board of directors so it is very much in process. The board is comprised of auto companies, so this is really a forum for members, OEMs, to share information about risk and countermeasures. And so the mechanism is the ISAC itself, and that is precisely why it has been established.

We are augmenting the ISAC -- which, by definition, deals with problems after they have been manifest -- with the best practices to preempt the possibility of problems. So this is a comprehensive approach. We are going to be working, obviously, with NHTSA using guideposts as we develop these best practices, including NIST, but the ISAC itself is comprised of the OEMs, and down the road, we will broaden out to include suppliers.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Burgess. And how do you then get the word out? I mean is it certified mail, email, carrier pigeon? What are you doing?

Mr. Bainwol. So the process is being established but they are talking to each other. The OEM community is a relatively small one and --

Mr. Burgess. So you don't see that as being an obstacle or a barrier?

Mr. Bainwol. The communications when events happen, I think, will be very quick, accelerated, and that will not be a problem.

Mr. Burgess. Very well. Mr. Welch, if I can ask you a question because, of course, this committee and another subcommittee has been very involved on the airbag recall, and of course in the Dallas-Fort Worth area that I represent -- I am sorry, I meant to say the Fort Worth-Dallas area that I represent. The backorder, you brought up the issue of the backorder of the recalled repair parts. And what has been the experience with your member dealers as far as being able to get the parts, specifically the airbags, for replacement when someone brings their vehicle in to have it fixed?

Mr. Welch. Well, that has been a particularly troublesome recall, as you know. There are some 24 million vehicles that are involved in that, and in order to produce sophisticated airbags

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

in sufficient numbers to replace 24 million of them are going to take time. In fact, the backorders on those, depending on the make, the model, what factory they are coming from, availability, could well be over a year.

And the dilemma that we face day in and day out because of the publicity that this recall has received, you know, we have to deal with our consumers, your constituents that come in, and we don't have the replacement part. And the dilemma is that they don't affect all of the vehicles the same depending on what the climate is. There is a humidity issue with them and whatnot, and I think our partners the manufacturers are doing as good a job as they can in trying to triage the availability of those parts and get them to the regions of the country where they would have the largest impact with respect to it.

But we are just going to have to wait through that and do the best that we can with the availability. We have got databases with people waiting, priority issues, and, you know, some of them want us to disengage the airbag, which creates a whole other dilemma on -- we don't think that is a good idea. And then there is the debate between the risk of the occupant having an airbag since not all of them have the defect in them. So it is a very complex issue, Mr. Chair.

Mr. Burgess. And, of course, in the hearings that we have

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

held on this, this is all made more difficult because no one knows what the central defect is, and the replacement parts that you are putting in the cars that do come in that are subject to the recall and do require a replacement part, no complete assurance that the replacement part is actually compliant with -- since we don't know what the defect was in the first place.

You brought up getting the information out to targeted demographics, and that is something that has been the subject of a lot of discussion in this subcommittee as well, because typically, this is the third or fourth owner of a vehicle. I know in the market in the Dallas paper, one of the automotive manufacturers actually took out full-page ads in the paper, you know, if you have one of our cars that is of this vintage, call the number or bring it in or whatever their requirement was.

But they said it is very, very difficult to get the information out to, again, that third or fourth owner who may not be someone who reads the newspaper regularly that, you know, is maybe difficult to reach that individual. So is that one of the things that your association is working on as well? How do we get people in?

Mr. Welch. Well, any way that we can contact our customer base. Unfortunately, as the vehicles get older in age, they don't continue to bring them to the franchise dealer for their ordinary

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

maintenance.

I might add that the completion rate, the remedy rate for vehicles that are 5 years old or newer is actually 85 percent, and one of the primary reasons for that is those vehicles are still coming in for warranty work. And trust me, any time a vehicle comes into our service department, we are scanning the VIN, we are running it if we have access to the database, and we are snagging it there and repairing them at our service bays.

Mr. Burgess. And my time is expired. I yield to the gentlelady from Illinois 5 minutes for questions, please.

Ms. Schakowsky. Thank you.

I wanted to ask a yes or no question, a couple of them, for Mr. Bainwol. Did the Alliance of Automobile Manufacturers ask the committee for the provision in the bill that would give automakers a break from health-based carbon emissions requirements in exchange for adding safety features?

Mr. Bainwol. We did not request it per se but we had a conversation about the value of --

Ms. Schakowsky. Yes or no, do you support that provision? Yes or no?

Mr. Bainwol. We certainly support the provision, sure.

Ms. Schakowsky. You do?

Mr. Bainwol. Sure.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Ms. Schakowsky. And, Mr. Bozzella, I am asking the same question of the association of Global Automakers. Did you ask the committee for that provision?

Mr. Bozzella. We did not.

Ms. Schakowsky. Do you support it?

Mr. Bozzella. The provision to incentivize lifesaving technologies we think is a very important conversation to have.

Ms. Schakowsky. Well, I want all consumers to understand that manufacturers of automobiles support a provision that would actually increase pollution in exchange for providing -- I am not asking now; I am talking -- to improve safety of the automobiles. I think it is outrageous. Consumers like myself who now have a hybrid are seeking that. I would imagine that auto dealers would find the consumers are coming in and wanting more fuel-efficient cars. And to add this as an incentive to get safety often for safety features that are readily available is completely outrageous.

I want to thank you, Mr. Dotson, for your testimony on this matter, and I want to move on to something else.

Mr. Bainwol. May we comment on that?

Ms. Schakowsky. Briefly.

Mr. Bainwol. Okay. Well, I will try to be brief.

Ms. Schakowsky. No, you will be brief.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Bainwol. Well--

Ms. Schakowsky. It is my time. Go ahead.

Mr. Bainwol. It is your time. So the challenge here is I think to some extent we are talking past each other. You define safety as a matter of defect policy and we define safety as a totality of the problem. So when you look at the issue -- this chart I think makes it pretty clear -- 94 percent of the challenge when it comes to death if not more, if not close to 99 percent, is a function of driver error. The magic of this technology is that it will address the totality of the problem.

Ms. Schakowsky. What are you talking about? We are talking about incentives that increase auto pollution --

Mr. Bainwol. We are --

Ms. Schakowsky. -- in exchange for getting those safety --

Mr. Bainwol. We are talking about maximizing and accelerating the deployment of lifesaving technologies.

Ms. Schakowsky. Exactly. And doing it in a way that increases auto emissions.

Mr. Bainwol. In a --

Ms. Schakowsky. I am sorry. I want to move on. It is my time.

This is for Ms. Claybrook. Over the last several years, we

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

have seen multiple scandals involving auto manufacturers and major safety defects that were internally reported but allowed to endanger people for years before the company did anything about this. NHTSA's ability to collect safety-related information from carmakers is critical to catching and fixing those problems. The draft we are looking at today asked NHTSA to conduct eight new studies and reports without providing any additional funding. Meanwhile, it does almost nothing to improve the communication of vital safety information from manufacturers to the agencies. My legislation, the Vehicle Safety Improvement Act, would facilitate communications.

Let me ask you. As former NHTSA administrator, do you believe that more information from auto manufacturers would allow the agency to be more effective in its safety mission?

Ms. Claybrook. Absolutely, I believe more information is necessary. The early warning system that was created by the 2000 law for the TREAD Act did not give a lot of specificity about what the manufacturers had to report. They often report inconsistent information, it is very difficult to understand, and they fail to report information. Many have been fined for that recently. So that law needs to be upgraded, and your bill does a good job of helping to do that.

I also think there need to be criminal penalties when the



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

manufacturers fail to give that kind of information knowingly and willfully because otherwise they are not going to stop doing it. And --

Ms. Schakowsky. And do you think the penalties currently are adequate?

Ms. Claybrook. No. First of all, if you look at what the U.S. Attorney fined Toyota, 1.2 billion; and General Motors, 900 million; and NHTSA's maximum penalty is 35 million. So it is clear that that number has to be drastically increased or there has to be no maximum. But there also need to be criminal penalties because when a manufacturer knows that they might go to jail, they are going to behave differently and they are going to pay more attention to what is going on.

When the counsel of General Motors said that he didn't even know about settlements of lawsuits involving the ignition switch and that they were covering up information from those lawsuits, that was just incomprehensible. And so I think that there needs to be much stronger penalty provisions.

Ms. Schakowsky. I appreciate that. Thank you. I yield back.

Mr. Burgess. The gentlelady's time has expired. The gentlelady yields back.

The chair recognizes the gentleman from Kentucky 5 minutes

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

for your questions, please.

Mr. Guthrie. Thank you. Thank you for having this meeting. I appreciate the panel for being here. And I apologize. There is another subcommittee of this committee going on, so I was in the other one during your opening remarks. If some of my questions repeat those, then I apologize. I will give you a chance to elaborate if you have already addressed some of these.

This is for Mr. Bainwol and then Mr. Bozzella. Have NHTSA and the auto industry had discussions on how best to apply the NIST cybersecurity risk management framework to the development of automobile security?

Mr. Bainwol. Not directly the question of NIST but we have had discussions with the administrator about best practices. We met with him in September, and it was his view that the pace of innovation is so rapid that it would be wise for us to move forward with the best practices, that we would be, in his words, more nimble. And as a result of that conversation, as a result of discussions with members of this committee, we made the decision to go forward with the best practices. And NIST will be part of the framework that we evaluate as we move forward.

Mr. Guthrie. Mr. Bozzella?

Mr. Bozzella. Yes, I will just simply build on Mr. Bainwol's comment by simply saying the NIST framework is going to be part

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

of obviously our discussion as an industry. And I think it is important to recognize that, though we have had ongoing conversations with NHTSA, that we can't afford to wait.

It is really important that we make sure that our customers have the confidence and the trust in these products so that they can take advantage of the benefits, the lifesaving benefits of these technologies. And so we have moved forward. We are going to continue to consult not only within the industry but with a broad number of stakeholders, and certainly the NIST framework will be part of those discussions.

Mr. Guthrie. And then I have another question for you, too. How are car companies currently dealing with the security of aftermarket or third-party devices that are typically being plugged into the vehicle through the OBD-II port?

Mr. Bozzella. This is a really important question. As you know, Congressman, the industry has voluntarily adopted a set of privacy principles that treat sensitive personally identifiable information really as sacrosanct. We care deeply about making sure that our customers know that we are treating geolocation data -- where the vehicle has been or other personal data, maybe biometric data if the car is able to collect that type of data, or driver behavior data -- differently than other kinds of data. And we think it is very important that we continue to work with

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

a broad set of stakeholders to understand the implications of what might happen if an aftermarket device is plugged into the OBD port.

And we think also consumer education is important in this area. It is a very important question to understand. Is the manufacturer of that device, do they have the same types of privacy policies? How they established the same cyber best practices that the automakers have or are doing? And so that actual entrance into the vehicle sort of represents a very important question about how we think about cybersecurity.

Mr. Bainwol. And I simply add that, by way of example, I have a Progressive device. It is actually an Allstate device that I plug in for insurance purposes. That doesn't run, in terms of the privacy question, through the manufacturer. That is a relationship with the insurance company. And I derive a value from that because I derive cheaper insurance and an ability to understand better the driving behavior of my children, which is something we all, I think, aspire to.

So this does get complicated, and the point of the example is whether it is insurance or whether it is Google or Apple or carriers, there are relationships here that now really compel us to work with suppliers and other folks that we have not traditionally worked with. And so on privacy and on cyber, we are going to have to reach out, and we have started that process.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Guthrie. Do you have a comment, Ms. Wilson?

Ms. Ann Wilson. Congressman, I represent also aftermarket manufacturers, and we have been working with vehicle manufacturers to create an ISO standard --

Mr. Guthrie. Okay.

Ms. Ann Wilson. -- so that you can do exactly that, take a look at aftermarket products and make sure that when they are plugged into the OBD port, they meet some kind of standards that are known throughout the industry.

Mr. Guthrie. All right. Thank you. And thank you. We have talked on fuel-efficient standards and safety, and I want a fuel-efficient car that is safe. I think all of us want that, but they are not unrelated because if you are going to go for more fuel efficiency -- I know this area pretty well -- automotive companies will try to take weight out of the car and try to keep it safe. I mean that is how you get more fuel efficient. So they are interrelated.

So if you are going to incentivize -- and automotive companies, they are spending an enormous amount of money trying to get to the new CAFÉ standards. An enormous amount of investments come from automotive companies, which does add to the expense of the car. And the security issues and safety issues are expensive. So if you can give some relief in one area to get

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

safety and security first, I think that is important. And then you move to more fuel-efficient cars. I think that is the number one priority is safety. And they are interdependent. They are not unrelated to each other.

Mr. Bainwol. In my testimony, Congressman, I use the phrase "safety equals green." This is a change paradigm. When these technologies like accident-avoidance technologies yield better safety outcomes, the yield is more fuel-efficient cars, better emissions records, and certainly a more productive economy.

Mr. Burgess. The gentleman's time has expired.

The chair recognizes the gentleman from Massachusetts 5 minutes for your questions, please.

Mr. Kennedy. Thank you, Mr. Chairman. Thank you to the panelists and the witnesses here for their testimony.

I wanted to touch on Section 202 of the draft bill, which requires NHTSA to draft recall notices in coordination with auto manufacturers before making recalls public. And recall notices would not be published until all vehicle identification numbers for affected vehicles are made available to NHTSA by the auto manufacturer. I believe the first panel touched on this a little bit as well.

So, Ms. Claybrook, if you can, in some of the recent major recalls we have heard concerns that the recalls were made public

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

before any information about whether a specific vehicle was included in the recall, which led to some customer confusion. At the same time, you have noted in your testimony that a delayed notice can actually have deadly consequences.

So I just wanted to get you to kind of expand on that dichotomy if you could. Why is prompt notice so crucial in your mind, and how would you navigate through those tensions?

Ms. Claybrook. Well, first of all, I think that at the bottom line the public, the consumers, the people who are driving these cars, they are entitled to know that there is a problem with the vehicle. And they can maybe do something on their own to avoid the problem while they are waiting for the recall to occur. So any delay in announcing that recall I think is disadvantageous, and I would actually urge the administrator of NHTSA, as I did when I was administrator, to put out a consumer alert and allow the public to be informed about what is going on.

This provision in this bill suggests that they could not do that, that the administrator would be limited in the way that they could communicate to the public and then have to wait for the manufacturer to say okay. I think that that is completely back-assward--

Mr. Kennedy. I got what you meant.

Ms. Claybrook. Backwards. And so the administrator's

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

hands should not be tied that way.

Mr. Kennedy. My words not his, but I believe Dr. Rosekind this morning echoed those statements about if the government was in fact sitting on the fact that they knew there was a problem yet was not time divulging that information to consumers and an accident were to take place, that is not a position that I think any administrator would want to be in.

So instead of delaying notice of recalls to consumers, the Vehicle Safety Improvement Act would give NHTSA imminent hazard authority to expedite a recall when the agency determines that a defect or noncompliance, as I understand it, substantially increases the likelihood of serious injury or death if not remedied immediately.

So, Ms. Claybrook, how do you think this imminent-hazard authority would be beneficial to NHTSA in reducing deaths and injuries resulting from those crashes?

Ms. Claybrook. Oh, absolutely, because there are occasions where the car is so hazardous that that recall ought to be handled immediately.

And I would say also that this provision that is in the bill was in an earlier bill about 15 years ago, and consumers were extremely upset about it, and it was taken out of the bill because a committee came to realize that it was really totally unfair,



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

that the administrator would not be able to inform the public.

Mr. Kennedy. VSIA would also eliminate, as my understanding, regional recalls, an issue that the majority's draft bill does not address. Americans are much more mobile than they have ever been in the past, and just because a vehicle is registered in a particular region does not mean that the vehicle will only be driven in that region. Under VSIA, all recalls would be carried out on a national basis. It would also allow NHTSA to prioritize certain parts of the country when the quantity of replacement parts is limited.

So, Ms. Claybrook, once again, could you explain how the elimination of the regional recall aspect would improve safety?

Ms. Claybrook. Well, first of all, regional recalls are not in the statute. It is completely an informal thing that the manufacturers about 25, 30 years ago came to the agency and say, well, we would just like to do a regional recall on this for these reasons. And the agency said all right. And then it became so standard operating procedure because it is much cheaper for the manufacturers only to recall a small number of vehicles rather than nationwide.

Of course, vehicles don't stay stationary. That is the silly thing about the whole regional recall because they go all over the country. And if your car has only been fixed because

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

you bought it and lived with Florida for a while and then you moved to Minnesota, you know, it just doesn't make any sense.

So I think that the agency could prioritize. I think they have the discretion under the law to prioritize and say if you are doing the recall and it is more likely to happen in a particular area because of the weather, then we would prefer that you do it that way. I am sure the manufacturers would agree.

Mr. Kennedy. And just briefly -- unfortunately, I have just a few seconds left -- but in your experience, would eliminating those regional recalls, as you touched on, but allowing NHTSA to prioritize the allocation of replacement parts by region when necessary -- essentially, the prioritization you just spoke about -- have an effect on NHTSA's ability to execute a recall?

Ms. Claybrook. No. No, it absolutely would not. And I think that the experience that we have with the misbehavior of manufacturers over the last 5 years, as we have seen, in covering up recalls, delaying them, not doing them for years and years, and all the rest means that NHTSA has to take a stronger role and they should be the decision-makers on this, not the manufacturers.

Mr. Kennedy. Thank you, ma'am. I yield back.

Mr. Burgess. The chair thanks the gentleman. The gentleman yields back.

The chair recognizes the ranking member of the full

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

committee, Mr. Pallone, 5 minutes for your questions, please.

Mr. Pallone. Thank you, Mr. Chairman.

My questions are to Mr. Dotson. Section 502 of the discussion draft would amend the Clean Air Act by interfering with the national program that EPA and NHTSA have developed to reduce greenhouse gas emissions and improve fuel economy for passenger cars and trucks. Mr. Dotson, can you briefly explain this national program and what are its goals?

Mr. Dotson. Certainly. The purpose of the program is essentially to control carbon pollution from light-duty vehicles, and the program is remarkably successful. It will essentially have the effect of doubling fuel economy or reducing the emissions of cars and trucks by half, reducing emissions by half by 2025.

Mr. Pallone. All right. So why is it so important to establish standards for greenhouse gas emissions for vehicles, and how will changing these commonsense requirements impact our ability to avoid or prevent the worst impacts of climate change?

Mr. Dotson. Well, it is now I think a consensus amongst scientific community, business, and even the faith community that climate change is a very serious threat. Last year, the Intergovernmental Panel on Climate Change said that they have high confidence that unmitigated warming will be high to very high risk of severe, widespread, and irreversible impacts globally, so

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

things like food shortages --

Mr. Pallone. You don't have to talk about climate change. You don't have to convince me, and you are not going to convince my colleagues on the other side. Why is it important to establish these standards for gas emissions for vehicles?

Mr. Dotson. Well, the standards are very important, but they are important because they provide the industry clear direction on where they need to go over time.

Mr. Pallone. Okay.

Mr. Dotson. And the erosion that occurs in this bill, while it might sound small, is actually very significant. If you were to award a 3-gram credit for cars that have in-dash GPS or emergency auto braking, in the first year -- last year, there were 16.5 million cars sold in the United States. You assume those cars drive 13,000 miles a year or so. You are talking about over 700,000 tons of additional pollution in year 1.

Mr. Pallone. Okay.

Mr. Dotson. In year 2, it is over a million, in year 3 it is over 2 million tons.

Mr. Pallone. All right. Now, there are flexibilities built into the national program such as the ability to generate credits for over-compliance with the standards, that is, credits that can be banked or traded. And there are also air-conditioning

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

improvement credits and other types of credits known as off-cycle credits. Can you explain briefly what are the off-cycle credits?

Mr. Dotson. Certainly. Off-cycle credits essentially allow the manufacturers to take credit for efficiencies they gain that are unrelated to the power train of the vehicle. So, for example, if an auto manufacturer uses high-efficiency lighting or high-efficiency air-conditioning, they may be able to recognize those benefits in off-cycle credits.

The EPA and the Department of Transportation looked at this issue with regard to congestion mitigation or crash avoidance, and they found that there is "no consistent established methods or supporting data to determine the appropriate level of the credit." And that is really the problem with awarding credits for these kinds of technologies.

Mr. Pallone. But in other words, these credits such as air-conditioning that don't readily appear to contribute to improved vehicle mileage or reduced greenhouse gas emissions, they must have had a positive effect, right?

Mr. Dotson. And those effects are demonstrated through data to the agencies. So essentially, if you are using very high-efficiency lighting, you will need less electricity. Your car will have to generate less electricity to power those headlights. And so it is a way of recognizing that even though

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

it might not show up in the emissions testing, which is --

Mr. Pallone. Okay. But the difference, in contrast, is that Section 502 of this bill would expand the credits list to include the use of advanced automotive technologies, for example, adaptive brake-assist technology, connected-vehicle technology. I mean, automakers have argued that crash-avoidance technology will result in fewer crashes and therefore less traffic congestion, but less congestion, they argue, would result in less emissions and less fuel use? Is there any way to directly connect fuel savings for lower emissions to individual vehicles? I am just trying to make the contrast between, you know, the things that you are doing now versus what Section 502 does. It doesn't seem to me that there is any real connection if you will.

Mr. Dotson. You put your finger on exactly the issue, that there could be, there may be diffuse benefits to using these technologies and reducing emissions, but there also might not be. For example, there is an American car which is on the market today, and as an option, you can buy lane-departure warning technology. Well, the Highway Loss Data Institute looked at that technology and they compared claims against that car that either have the technology or don't, and what they found was there is no reduced claims on cars that have that technology. Therefore, it is not preventing accidents. Therefore, it is not reducing emissions.

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

And so that is one concrete example where this bill would give credits to that car even though we have data to help us understand that there are not emissions benefits to it.

Mr. Pallone. All right. Thanks so much.

Thank you, Mr. Chairman.

Mr. Burgess. The gentleman yields back. The chair thanks the gentleman.

The chair recognizes the gentlelady from California, 5 minutes for questions, please.

Mrs. Capps. Thank you, Mr. Chairman, and to all our witnesses for your testimony today.

Federal law prohibits car dealers from selling new cars subject to recall, but there is no similar law to stop rental car companies from renting or selling dangerous recalled cars that have not been fixed. Since the Houck sisters' death near my district in 2004, the major rental companies signed onto a voluntary pledge to not rent out recalled vehicles. While this was a good step forward, these standards are still not enough. Just last year, after the pledge was in place, Jewel Brangman was killed in her rental car when an unrepaired Takata airbag exploded.

As we heard from NHTSA on the first panel, a change in federal law is needed, and that is why I have introduced H.R. 2198 with

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

my colleagues Ms. Schakowsky, Mr. Walter Jones, Mr. Butterfield to prohibit the rental of recalled vehicles. I am disappointed our bill was excluded from the draft we are considering today despite its broad support from the rental industry and consumer groups and that it has already passed the Senate.

I also remain baffled that the Alliance of Automobile Manufacturers and National Automobile Dealers Association actively oppose H.R. 2198 despite years of ongoing discussions and efforts to find a compromise. For example, the alliance sites a concern about potential loss of use and other liability impacts as a reason for its opposition.

To address this concern, we added a savings clause to the bill explicitly stating that nothing in the bill will impact manufacturers' liability or other contractual obligations. Because of this change, General Motors, one of the alliance's biggest members, now supports H.R. 2198. Honda has also expressed its support for the bill.

Mr. Bainwol -- and I would like a yes or no answer on this if you would -- does the alliance still oppose H.R. 2198 despite General Motors' support for the bill? Yes or no?

Mr. Bainwol. The alliance does not have consensus.

Mrs. Capps. Thank you. So you can't say yes or no then because there is no consensus?



**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Bainwol. We don't have consensus.

Mrs. Capps. Thank you.

Mr. Welch, your organization has expressed concerns about the impacts H.R. 2198 would have on dealers with small rental or loaner car operation. My question to you: when consumers bring their recalled cars to a dealer for repairs and they need a loaner car, do you think dealers should be able to loan them vehicles with unrepaired safety recalls? And again, I ask you for a yes or no answer.

Mr. Welch. If the vehicle has been deemed to be unsafe to drive either by the OEMs or by NHTSA, we would not put one of those cars in the hands of the consumer.

Mrs. Capps. So that is a no? You do not think dealers should be able to loan vehicles with unrepaired safety recalls?

Mr. Welch. No, I said if they were unsafe to drive we wouldn't put them out there. If it involves --

Mrs. Capps. You would not loan them, then, as loaner cars?

Mr. Welch. If it was unsafe to drive. If it had, you know, a door jamb sticker or a misprinted number --

Mrs. Capps. Okay. That is not quite what my question is, but I just go back to the first panel in which NHTSA said that every recall is a safety issue. There are no frivolous recalls. It is a simple question. The vast majority of rental companies

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

have agreed to voluntarily stop renting rental cars. Why can't the dealers do the same?

Mr. Welch. Well, again, I would like to draw a distinction between a recalled vehicle for a noncompliance that may not make it unsafe to drive.

Mrs. Capps. May I ask you a follow-up then? Who is going to determine that?

Mr. Welch. Well, we rely on NHTSA and the OEMs to make that determination.

Mrs. Capps. Okay. NHTSA has said that every recall is a safety issue, that they don't put recalls out unless it is a safety issue.

Mr. Welch. Well, NHTSA has the authority to issue stop-drives or make the manufacturers issue stop-drives, and if they believe that a vehicle is unsafe to drive or the manufacturer does it, they can issue that notice and we would certainly honor it, but that doesn't apply to all vehicles that are subject to recalls.

Mrs. Capps. I didn't get an answer but my time is out. Thank you.

Mr. Burgess. The chair thanks the gentlelady.

I do just want to offer the observation, Ms. Schakowsky said that she drove a hybrid vehicle. I want you to know your chairman

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

drives a hybrid also, but I have no problem at all if you want to make future hybrid vehicles safer. If you want to warn me as I depart a lane that there is a car, motorcycle, tricycle in the other lane, I would like to know that information, and I will give up a couple of carbon credits to be able to have that available in the next version of the car that I buy.

Seeing that there --

Mrs. Capps. Mr. Chairman, I am sorry, may I add an addendum, not a question, but I would like to enter into the record -- and I neglected to say that -- some letters --

Mr. Burgess. Does the gentlelady have a unanimous consent request?

Mrs. Capps. Yes, please.

Mr. Burgess. You are recognized for your unanimous consent request.

Mrs. Capps. Okay. I wanted to enter into the record a letter from Raechel and Jackie's mother, Cally Houck, urging passage of H.R. 2198, two letters from General Motors indicating the company's support for H.R. 2198, and also a letter on behalf of my colleague who needed to leave, Ms. Schakowsky.

Mr. Burgess. Without objection, so ordered.

[The information follows:]

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

\*\*\*\*\* COMMITTEE INSERT 12 \*\*\*\*\*

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mrs. Capps. Thank you.

Mr. Burgess. Seeing that there are no further Members wishing to ask questions, I would like to thank all of our witnesses for being here today.

Before we conclude, I would like to include the following documents to be submitted for the record by unanimous consent: a written statement by the American Car Rental Association, a letter from the Auto Care Association, a letter from the American Chemistry Council, a letter from the American Association of Motor Vehicle Administrators, a report from the Motor & Equipment Manufacturers Association, a statement from the Environmental Protection Agency.

[The information follows:]

\*\*\*\*\* COMMITTEE INSERT 13 \*\*\*\*\*

**This is a preliminary, unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker. A link to the final, official transcript will be posted on the Committee's website as soon as it is available.**

Mr. Burgess. Pursuant to committee rules, I remind members that they have 10 business days to submit additional questions for the record. I ask the witnesses to submit their responses within 10 business days upon receipt of the questions. Without objection, the subcommittee will stand adjourned.

Ms. Claybrook. Mr. Chairman, could I just ask that I make a correction in my testimony, unanimous consent to do that?

Mr. Burgess. Yes, I would be happy to hear the correction of the testimony.

Ms. Claybrook. Thank you very much.

Mr. Burgess. Oh, you are not going to say it today?

Ms. Claybrook. No, I won't bother you now. I will just submit it.

Mr. Burgess. All right. We are left wondering about the correction.

The committee stands adjourned.

[Whereupon, at 12:51 p.m., the subcommittee was adjourned.]