

FOR IMMEDIATE RELEASE
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**“NO TIME TO WASTE” ON TOYOTA REFORM BILL SAYS
COALITION OF VICTIMS, SAFETY & CONSUMER GROUPS,
FORMER AGENCY ADMINISTRATORS**

***HOUSE COMMITTEE LEADERS JOIN IN CALL FOR IMMEDIATE ACTION IN
CONGRESS***

Washington, D.C. – As the August Congressional recess nears, family members victimized by faulty cars that accelerated out-of-control gathered on Capitol Hill with key auto safety leaders, House Energy and Commerce Committee chair, Rep. Henry Waxman (D-CA), and committee members Rep. Bart Stupak (D-MI) and Rep. Bruce L. Braley (D-IA), to urge passage in Congress of the Motor Vehicle Safety Act of 2010 (H.R. 5381), commonly referred to as the “Toyota bill”.

In a letter to Waxman and top Republican member, Rep. Joe Barton (R-TX) about the importance of necessary reforms at the National Highway Traffic Safety Administration (NHTSA), the agency with regulatory authority to conduct vehicle defect recalls, 10 consumer, health and safety groups said, “At least 93 deaths may be associated with the defect, thousands of consumer complaints have been filed and millions of vehicles have been recalled.....we support H.R.5381 because it takes a comprehensive approach that will directly address the fundamental safety problems and systemic oversight issues that have been brought to light.” (attached)

“If any members of Congress or auto industry executives had the indescribably frightening and deadly experience that I did behind the wheel of my out-of-control Toyota Camry, this bill would already be law,” said Bulent Ezal of Pismo Beach, California, speaking at the press conference. “Believe me, I know the difference between a brake and an accelerator, and this bill is stalled, plain and simple, because the auto industry doesn’t want it to pass.” Ezal’s wife, Anne, was killed when their car suddenly accelerated and plunged off a cliff on February 25, 2007.

Among others, major proposed requirements for agency and industry operations included in H.R. 5381 are: upgraded motor vehicle safety standards including accelerator control and brake override systems; development of a new standard ensuring that vehicle electronics provide adequate performance to support safety-based systems; event data recorders (EDRs) in all vehicles to document what occurs in a crash; significantly increased civil penalties up to \$200 million; improved safety oversight, such as more information transparency and public access in the agency’s early warning information

process; imposition of penalties to hold corporate officials civilly liable for submission of false, misleading or incomplete information to NHTSA; restoration of federal judicial redress if people believe NHTSA has illegally denied their petition to open a defect proceeding; and a major increase in funding for the agency that is desperately needed.

On behalf of Advocates for Highway and Auto Safety, Vice President Jacqueline Gillan said, "The Motor Vehicle Safety Act is needed to rein in companies that display a callous disregard for consumers and for the truth, to reduce the number of safety defects that cost countless lives and result in the recall of millions of vehicles each year, and to protect the lives of families who trust that their car will operate safely. When enacted, this legislation will represent a significant improvement in the way safety is regulated, administered and enforced."

Clarence Ditlow, Executive Director of the Center for Auto Safety, said, "Congress has a chance to fix problems that should never have been allowed to develop in the first place. No amount of industry angst or opposition should stand in the way of H.R. 5381 becoming the law of the land."

Rhonda Smith of Sevierville, Tennessee, thought she would never see her family again when her Lexus 350 ES accelerated to over 100 mph for several miles, on October 12, 2006. "I called Eddie on the Bluetooth phone system to say goodbye," she said, "and I tried everything to slow down the car from almost standing on the brake, very firmly engaging the emergency brake, shifting the car into neutral and shifting to other gears.....We don't want another family to go through this nightmare. We don't want auto companies like Toyota to ignore safety problems, especially because of their greed. But we do want NHTSA to have the resources to identify safety defects and the legal tools to hold automakers responsible for irresponsible behavior. Vehicle safety defects kill and maim innocent victims, and leave heartbreak and mental anguish with the families."

Joan Claybrook, former NHTSA Administrator in the Carter Administration, released a letter addressed to Waxman and Barton and signed by herself and two other former Administrators of NHTSA -- Jeffrey W. Runge, M.D. (Bush Administration), and Ricardo Martinez, M.D. (Clinton Administration) -- expressing strong support for the funding provisions of the bill (attached). "Our letter obviously demonstrates that there has been a funding crisis at NHTSA for years," Claybrook said.

A Vehicle Safety Fund would be created with a tiny fee paid on each new car produced and would be used solely to carry out NHTSA's vehicle safety programs. "User fees are a common method of helping pay for government programs, particularly those affecting public health and safety," the letter said. The fee starts at \$3 and grows to \$9 by the third year and would be adjusted for inflation. The letter concludes, "we urge you to support the funding provisions in H.R. 5381 and adequately fund NHTSA vehicle safety programs that have saved so many lives each year."

Jack Gillis, Director Public Affairs of the Consumer Federation of America, said, "As the average new car price approaches \$28,000, who in America wouldn't pay an extra \$9

to help insure the safety of the one item that we purchase that's most likely to kill or injure us? Clearly, this isn't about the \$9, what the car companies and U.S. Chamber are objecting to is insuring a fully funded regulatory agency that will hold them accountable to the law."

"H.R. 5381 is a critical piece of consumer safety legislation that will help strengthen NHTSA's ability to address and avert safety problems in the future," said Ami Gadhia, of Consumers Union. "In February 2010, in light of the concerns raised by sudden unintended acceleration in Toyotas, Consumers Union called on NHTSA to require specific safety changes in all new cars: brake override or similar technology to safely stop a car within a safe distance; simple, standard controls to turn off the engine in an emergency; intuitive, clearly labeled transmission shifters; and methods to address pedal entrapment. H.R. 5381 directs NHTSA to make all of these safety improvements."

Mrs. Guadalupe Alberto, formerly of Flint, Michigan, died at age 77 in a sudden acceleration crash on April 19, 2008 when her 2005 Camry hit a large tree six feet above the ground, at an estimated speed of 80 mph. She was described by her family as someone who "drove the same roads to her store every day, drove around Flint and to church, and rarely drove over 45 mph." The crash occurred after a wild struggle through four intersections while she tried to control her car and avoid hitting others. A post-crash investigation revealed that Mrs. Alberto's vehicle did not have her driver's side floor mat installed and the medical examiner found that there were no pre-crash medical conditions that could have contributed to the crash.

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July 21, 2010

The Hon. Henry Waxman, Chairman
Energy and Commerce Committee
U.S. House of Representatives
Washington, D.C. 20515

The Hon. Joe Barton, Ranking Member
Energy and Commerce Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Waxman and Ranking Member Barton:

As leaders of major consumer, safety and health organizations, we strongly support the Motor Vehicle Safety Act of 2010, H.R. 5381. The House of Representatives has held 7 hearings on sudden acceleration in Toyota vehicles and the subject has been aired in hearings on the agency budget before the Appropriations Committee as well. At least 93 deaths may be associated with the defect, thousands of consumer complaints have been filed and millions of vehicles have been recalled.

We heard riveting accounts from individuals and families whose Toyota vehicles suddenly, unexpectedly and uncontrollably accelerated up to 100 mph through no fault of the driver. The hearings highlighted public concern and dismay about insufficient vehicle safety design and lax government oversight, identified critical legal loopholes, regulatory deficiencies and funding shortfalls.

We support H.R. 5381 because it takes a comprehensive approach that will directly address the fundamental safety problems and systemic oversight issues that have been brought to light. The legislation addresses all of these problems and when enacted will protect consumers. Just a few of the many important safety improvements in the bill that we support are highlighted below.

Improved Safety Standards:

H.R. 5381 includes essential requirements to upgrade the federal motor vehicle safety standards governing accelerator control systems (Section 103) and a brake override system (Section 102) in order to ensure that electronic throttle controls operate safely and provide a fail-safe mechanism to prevent vehicle sudden acceleration.

New motor vehicles are highly dependent on electronics to operate most vehicle systems including safety systems, yet currently there is no minimum safety performance standard to ensure that vehicle electronics provide adequate performance to support safety-based systems. Because motor vehicle safety systems may not be able to perform properly if the electronic systems on which they rely fail or are inadequate, the bill includes a provision (Section 105) that requires consideration of the need to establish such a standard.

Event data recorder (EDR) crash information is an invaluable resource for improving traffic safety. Objective data on vehicle performance before and during a crash can provide helpful insights into crash causation and possible safety countermeasures. At present, different types of EDRs are voluntarily installed by manufacturers in most but not all new motor vehicles. The bill (Section 107) would require EDRs in all vehicles and enhance data gathering and uniformity, while at the same time guaranteeing that vehicle owners and lessees have ownership of the EDR data and that their privacy rights are protected even when the data is used for safety research.

The provision on commercial motor vehicle rollover prevention (Section 109) will advance large truck safety by applying similar technology that is already required on passenger vehicles. Rollover is a major safety problem for large trucks that involves not only deaths and injuries but also results in traffic congestion and high costs for delays, incident response and freight cleanup.

Improved Safety Oversight:

H.R 5381 improves the early warning information process (Section 201), originally provided for in the TREAD Act, by making the information more transparent and providing public access to non-confidential defect reports and information. It also makes long-overdue improvements to the consumer vehicle safety database (Section 202).

The bill also includes reasonable measures to make corporations and officers civilly liable for their acts or omissions. The potential imposition of a civil fine is intended to hold senior corporate officials accountable for safety-related information they submit to the government that is later proven to have been knowingly and willfully false, misleading or incomplete (Section 205). Corporate officials who engage in such conduct can be assessed a civil fine of \$5,000 a day to a maximum of \$5 million. Likewise, the increase in civil penalties to \$25,000 a day to a maximum cap of \$200 million, (Section 402), for violations of critical statutory safety provisions are reasonably calculated to ensure that corporate officials and large corporations act responsibly.

Another important provision to improve transparency and public involvement in safety defect issues restores the right of people to seek redress in federal court if they believe that NHTSA has illegally denied their petition to open a defect proceeding (Section 206). This right existed for 20 years and while it was rarely used one challenge led to a landmark court decision on what constituted a safety defect.

We support the need to tighten the ethics requirements for former NHTSA employees (Section 209). The potential for conflicts of interest and undue influence are too great not to require the highest ethical standards to apply for agency employees and officials who find new employment. Finally, authorizing NHTSA to take immediate action by declaring an imminent hazard (Section 402), provides the agency with the authority to protect the public from immediate and imminent safety threats, the same type of authority that is possessed by numerous other safety and health agencies.

Agency Resources and Funding:

NHTSA is responsible for 95 percent of surface transportation deaths and 99 percent of injuries but is allocated only about one percent of the U.S. Department of Transportation budget. Past budget cuts and limited increases over the years have drastically reduced the NHTSA's workforce and its ability to initiate safety programs. The motor vehicle safety program for the entire country is now funded at a paltry \$132 million dollars. Even within the overall agency budget, less than one-sixth of its funding is currently dedicated to motor vehicle safety programs. The rest is dedicated to highway safety and grants to states. In order to ensure future improvements in traffic safety, to prevent defect problems from recurring and to protect recent gains in fatality reductions, it is essential that the NHTSA receive a major increase in budget authorization and funding. For these reasons we support the increase in NHTSA's authorization levels (Section 302) for fiscal years 2011 through 2013.

We also support the need to offset the increase in budget authority by the collection of a very modest safety user fee (Section 301). User fees are a common method of helping defray the cost of programs, including national park entry fees, highway tolls, commercial motor vehicle user fees, and fees for Food and Drug Administration drug approvals. Funding national safety programs that result from motor vehicle crashes through a \$9 per vehicle charge (after three years), which amounts to just three ten-thousandths of the cost of a new \$30,000 vehicle, is both reasonable and practical and imposes no appreciable cost on vehicle manufacturers. The safety fee amount is minimal compared to company charges for optional equipment, and when considered in contrast to the claim by Toyota employees who brag about saving \$100 million by maneuvering to avoid a sudden acceleration recall. For consumers, this safety fee is about the cost of a single ticket to a new movie. Vehicle purchasers pay far higher fees for vehicle registration, inspection and new vehicle delivery charges. In addition, State lemon laws have similar modest fees that ensure consumers receive lemon protection. The Section 301 fee ensures consumers get safety protection by adequately funding NHTSA regulation of the auto industry.

Federal Preemption:

Finally, we support the restriction on the interpretation of federal preemption law by Department of Transportation agencies. Although NHTSA and other modal administrations are experts regarding the program functions they carry out, they are not expert at rendering legal views on federal preemption of state judicial rights, a role best left to the courts.

In the past, Congress has taken action when the government safety agency and the auto industry were slow to recognize and react to safety needs and problems. In legislation such as **SAFETEA-LU** (Safe, Accountable, Flexible, Efficient, Transportation Equity Act – A Legacy for Users) in 2005, the **TREAD Act** (Transportation Recall Enhancement, Accountability, and Documentation) of 2000, and the 1991 **ISTEA** (Intermodal Surface Transportation Efficiency Act of 1991), Congress led by example and displayed leadership in advancing the national highway and motor vehicle safety agenda. The Motor Vehicle Safety Act of 2010 continues this approach and American families will be safer when this bill is enacted.

Sincerely,

Joan Claybrook
Former NHTSA Administrator
President of Public Citizen, Emeritus

Clarence Ditlow
Executive Director
Center for Auto Safety

Jack Gillis
Director of Public Affairs
Consumer Federation of America

Jackie Gillan
Vice President
Advocates for Highway and Auto Safety

Ami V. Gadhia
Policy Counsel
Consumers Union

Ed Mierzwinski
Consumer Program Director
USPIRG

Janette Fennell
Founder and President
KidsAndCars.org

Rosemary Shahan
President
Consumers for Auto Reliability and Safety (CARS)

John Lannen
Executive Director
Truck Safety Coalition

Jennifer Tierney
Board Member
Citizens for Reliable and Safe Highways (CRASH)

Andrew McGuire
Executive Director
Trauma Foundation

July 20, 2010

The Hon. Henry Waxman, Chairman
The Energy and Commerce Committee
U.S. House of Representatives
Washington, D. C. 20515

The Hon. Joe Barton, Ranking Member
The Energy and Commerce Committee
U.S. House of Representatives
Washington, D. C. 20515

Dear Chairman Waxman and Ranking Member Barton:

As former Administrators of the National Highway Traffic Safety Administration (NHTSA) representing three different Administrations we come together to express our united support for Sections 301 and 302 of H. R. 5381, the Motor Vehicle Safety Act of 2010. These sections address long-term funding for NHTSA's motor vehicle safety programs and will provide needed resources for one of the most important and effective public health and safety agencies of the federal government.

Additional resources for NHTSA are crucially important because the motor vehicle safety program has been under-funded for years, and indeed is losing ground to additional requirements imposed on it and to inflation. The failure to fund the vehicle safety program to keep up with inflation has meant the agency has had to limit its essential work of saving lives and preventing serious injuries.

This is no small matter. Every year about 40,000 people die in motor vehicle crashes and over 2 million are injured at a cost to society of more than \$230 billion. Motor vehicle crashes are the leading cause of death for all Americans ages 3 to 33. The personal toll on families and the financial toll on our economy are staggering. Although motor vehicle crashes account for 95 percent of all surface transportation fatalities and 99 percent of all injuries, NHTSA receives about one percent of the overall budget of the U.S. Department of Transportation. Highway deaths are equivalent to a major airplane crash every single day of the year.

H.R. 5381 seeks to redress the long-term funding shortfall in the motor vehicle safety program by including several reasonable and cost effective measures. Section 302 increases the authorization for fiscal years 2011 through 2013 from \$200 million to \$280 million. These increases are an important step in addressing the appropriate funding of an agency with such a critical lifesaving mission.

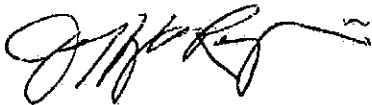
Section 301 is also an essential provision for providing a stable and secure financial foundation for the agency. It creates a dedicated Vehicle Safety Fund financed by a modest vehicle safety user fee assessed by the Secretary of Transportation from the manufacturers for each motor vehicle that is certified as compliant with applicable federal safety standards. The funds are to be used solely to carry out NHTSA's vehicle safety programs. The fee starts at \$3.00 and grows to \$9.00 by the third year, and thereafter will be adjusted for inflation. The one-time fee is extremely modest relative to other discretionary charges dealers are allowed to impose on the purchase of a new vehicle.

Congress has adopted user fees as a common and accepted method of helping to pay for government programs, particularly those affecting public health and safety. In the early 1990s, a similar program was created to fund certain activities of the Food and Drug Administration and has helped immeasurably to accelerate the speed at which the FDA reviews new drug applications. Telephone companies are allowed to charge a fee to pay for 911 access. Airlines charge passengers a "9/11 security fee" every time they board an aircraft. Congress created the Highway Trust Fund in 1956 funded by a user fee, the gas tax, to assure a continuing investment in the development, growth and safety of our essential highway system, and it now also covers funding for mass transit. Our motor vehicle safety program deserves the same type of support to assure funding to help protect our families and neighbors as they travel.

As past Administrators of this safety agency who have faced the challenges and experienced the rewards of serving our nation in advancing highway and auto safety, we urge you to support the funding provisions in H.R. 8351 and adequately fund NHTSA vehicle safety programs that have saved so many thousands of lives each year.

Thank you for your consideration.

Sincerely,



Jeffrey W. Runge, M.D.
(Bush Administration)



Ricardo Martinez, M.D.
(Clinton Administration)



Joan Claybrook, Esq.
(Carter Administration)

Motor Vehicle Safety Act of 2010 – H.R. 5381
Summary of Bill Provisions

Establishes a new Center for Vehicle Electronics and Emerging Technologies to add to the National Highway Traffic Safety Administration's (NHTSA's) expertise in vehicle electronics,

Proposes new federal motor vehicle safety standards to –

- **Prevent sudden acceleration:**
 - Brake override system,
 - Fail-safe accelerator control mechanism,
 - Standardization of push-button ignition and shut-off systems,
 - Improved driver recognition of gear selector positions,
 - Minimum clearance to prevent obstruction of accelerator foot pedals.
- **Establish performance standards for electronic systems in passenger vehicles.**
- **Require minimum sound levels to prevent electric vehicles surprising pedestrians.**
- **Reduce rollover crashes in large trucks.**

Funds cooperative research to develop in-vehicle driver alcohol detection system.

Modifies the current voluntary federal regulations for event data recorders (EDRs), that store vehicle performance data when a crash occurs, to require installation in all vehicles, to ensure that vehicle owners control the data and to protect vehicle owner privacy when EDR data is used for safety research.

Directs revision of Early Warning Data rules to allow greater public disclosure of vehicle defect information that manufacturers are required to report to the Secretary of Transportation.

Restores previously allowed right of citizens to appeal in federal court NHTSA's decision rejecting their defect petition.

Improves transparency of NHTSA safety defect information –

- Greater accessibility to NHTSA's public vehicle safety databases;
- Requires information on how to submit a safety-related motor vehicle defect complaint be placed inside new passenger vehicles;
- Establishes a safety defect hotline for employees of manufacturers, dealers and mechanics.

Increases civil penalties for persons who violate federal motor vehicle safety requirements, and also imposes civil penalties on senior corporate officials of auto manufacturers who knowingly and willfully submit false, misleading, or incomplete information to NHTSA in defect and compliance investigations.

Provides imminent hazard authority to enable NHTSA to take expedited legal action in the event a vehicle safety problem or defect poses an immediate danger to public safety.

Prohibits former senior NHTSA employees involved in vehicle safety issues from attempting to influence the agency on behalf of a regulated party for 1 year after leaving NHTSA.

Provides increased authorizations for NHTSA motor vehicle safety activities, including defect investigations, to ensure agency has resources needed to address motor vehicle safety including crashes, rulemaking, defects, compliance and investigations. **Establishes Vehicle Safety Fund**, with modest \$9 user fee for each new vehicle, to ensure NHTSA can meet its safety obligations and carry out its vehicle safety programs.

Prohibits NHTSA from usurping congressional and judicial determinations of federal preemption by prohibiting agency from making voluntary, gratuitous assessments in regulations of whether state law is preempted by federal law or action.

Motor Vehicle Safety Act of 2010 – It’s All About Toyota
Major Provisions in H.R. 5381 Aimed at Regulatory Flaws Uncovered in Toyota Sudden Acceleration (SA) Crisis

H.R. 5381 Provision	Problem
Center for Vehicle Electronics and Emerging Technologies	NHTSA failed to identify sudden acceleration failure mode in multiple engineering tests in various Toyota models in facility it leases from Honda. NHTSA has little in-house expertise on vehicle electronics.
Brake Override Standard	Toyota had no brake override to back off throttle when both brake and accelerator applied
Fail-Safe Electronic Accelerator	Electronic throttles in Toyota and other vehicles have no fail-safe mechanism as required for mechanical throttles
Standard Push-Button Ignition Off	Toyota requires push-button ignition off button to be held down for 3 seconds which is difficult to do in an emergency
Gear Shift Layout Standard	The neutral gear position in Toyota transmission is difficult to locate in order to bring accelerating vehicle under control
Foot Pedal Clearance Standard	Floor mat jamming caused some SA crashes in Toyotas due to lack of clearance
Electronic Control Safety Standard	Computer malfunction, electromagnetic interference and electronic hardware defects can cause SA because there is no design or performance standard
Event Data Recorder (EDR)	Toyota’s proprietary EDR which only Toyota could download and read exemplifies need for robust EDR regulation
Early Warning Data Revision	NHTSA failed to act on secret data submitted by Toyota under early warning information rules; if information had been made public, safety defect investigations and Toyota recalls would have occurred sooner
Defect Petition Court Review	NHTSA denied 6 Defect Petitions to investigate Toyota SA with little, if any, investigation or explanation; public should have access to the courts to appeal unreasonable agency decisions
Access to NHTSA public databases	Difficult access & organization of NHTSA databases allowed NHTSA & Toyota to hide SA complaints & reports
Consumer Complaint Label	Consumer complaints fell off because consumers don’t know where to file complaints, allowing Toyota to hide SA defects. Bill requires information label placed inside new vehicles telling owners where to file defect complaints
Whistleblower Hotline	Whistleblowers that could have exposed Toyota SA had no secure place to complain
Increased Civil Penalties	Toyota bragged it saved \$100 million by avoiding SA recalls with NHTSA fines capped at \$16.4 million – EPA vehicle violations have no cap on recalls
Closing Revolving Door	Toyota hired former NHTSA enforcement staff to lobby agency to avoid SA recalls
Imminent Hazard Authority	Toyota SA particularly hazardous with likelihood of deadly crashes yet NHTSA has no authority to take emergency action
Increased Vehicle Safety Funding	NHTSA’s vehicle safety funding has not kept pace with inflation since 1980 allowing Toyota SA to escape detection while funding for traffic safety programs have increased at a rate more than 50% above inflation since 1980
\$3 - \$9 User Fee	The NHTSA budget for vehicle safety is only \$132 million even though the agency is responsible for the safety of all motor vehicles and crashes that result in the deaths of nearly 40,000 people each year. The only way to ensure that NHTSA has adequate funding for its vehicle safety program, and to prevent further safety defects such as SA, is to establish a new vehicle user fee to provide dedicated funding for vehicle safety, as is done at the Food and Drug Administration to support food and drug safety programs and by the Transportation Security Administration to pay for increased airport security.



MOTOR VEHICLE EVENT DATA RECORDERS

An event data recorder (EDR) is a device installed in automobiles to record information on vehicle and safety system performance just prior to, during and immediately after a crash or other triggering event such as a rapid change in vehicle velocity or the deployment of a vehicle air bag. EDRs can play a critical role in improving occupant protection and reducing crash risk.

Safety Benefits of EDRs

- ❖ Crash reconstruction experts rely on objective EDR data to determine how a crash occurred and what factors contributed to the cause of the crash.
- ❖ Automotive engineers use EDR data to evaluate vehicle performance and how the vehicle safety systems operated during crashes.
- ❖ Safety researchers use EDR data to develop safer vehicles by improving vehicle safety systems including occupant restraint systems and energy-absorbing vehicle structures. EDR data collected on vehicle and restraint system crash performance will provide information needed to design safer vehicles and prevent serious and fatal injuries.
- ❖ Rollover crashes account for over 10,000 fatalities annually, one-third of all occupant deaths, and 17,000 serious injuries. Analysis of EDR data from rollover crashes can be used to design interior safety structures and restraint systems to reduce the number of deaths and injuries in rollovers.
- ❖ EDR data can be used in emergency situations, when a crash has occurred, to provide emergency medical responders with critical safety information about the crash. During the first hour after a crash, referred to as the “golden hour,” transmission of this information could save many lives. However, at present, this is only done through proprietary crash notification systems, for which vehicle owners sign up for and pay extra to have, such as “On Star.”
- ❖ EDR data will help identify vehicle defects, such as sudden acceleration, involving the performance of vehicle safety systems.

What EDRs Do and Don't Do

- ❖ EDRs do not continuously record/transmit the location of the vehicle in which they are installed.
- ❖ EDRs monitor important vehicle performance data, such as pre-crash speed, engine throttle, brake use, changes in forward velocity (Delta-V), safety belt use, and airbag deployment times but do not physically record this data until a crash or other triggering event occurs.
- ❖ Unless a vehicle owner has “On Star” or a similar proprietary automatic crash notification service, EDR data is not transmitted after a crash. In most instances, the EDR must be physically accessed and the data downloaded from the EDR using a special connector cable.

EDRs and Privacy

- ❖ In most states EDR data is already the property of the vehicle owner and H.R. 5381, the Motor Vehicle Safety Act of 2010, would make that federal law. That means EDR data cannot be accessed by a person other than the vehicle owner without a court order or the owner’s consent.
- ❖ H.R. 5381 would permit access to EDR data for safety research purposes but the safety agency that collects EDR data when investigating crash safety issues, the National Highway Traffic Safety Administration (NHTSA), has a procedure that requires its investigators to get the permission of the vehicle owner before retrieving EDR data.

- ❖ Both NHTSA and H.R. 5381 protect the privacy rights of the owner of the EDR data even after the information is retrieved by prohibiting the use or release of any personal information in connection with the EDR data.
- ❖ NHTSA has years of experience collecting and maintaining crash data involving personal information and has never had a problem or breach regarding privacy data.

EDRs are NOT Flight Data or Cockpit Voice/Video Recorders

- ❖ EDR cost is minimal. Most vehicles are already equipped with EDRs and the cost of installing EDRs under the currently voluntary standard is as little as 76 cents and, **at most**, \$2.14 according to NHTSA. By contrast, the cost of flight data recorders is thousands of dollars because they have to survive severe crash conditions and water immersion.
- ❖ Unlike aircraft data recording technology, motor vehicle EDRs do **not** record voices or videos.
- ❖ Flight data recorders record continuously, overwriting the previously recorded information until a crash occurs. By contrast, motor vehicle EDRs **only** record information in the last seconds leading up to and following a crash or triggering event. One reason for this difference is that in the aviation experience, catastrophic events may last several minutes, while for motor vehicle crashes, pre-crash data is generally significant for a shorter period of time.

July 21, 2010

The Honorable John D. Rockefeller IV
Chairman
Committee on Commerce, Science
and Transportation
U.S. Senate
Washington, DC 20510

The Honorable Henry A. Waxman
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Kay Bailey Hutchison
Ranking Member
Committee on Commerce, Science
and Transportation
U.S. Senate
Washington, DC 20510

The Honorable Joe Barton
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen Rockefeller and Waxman and Ranking Members Hutchison and Barton:

Public hearings held by your committees brought to light tragic sudden acceleration crashes that may be associated with 93 fatalities and thousands of consumer complaints. The Committee hearings revealed serious abuses and acts of omission and commission by both Toyota and the National Highway Traffic Safety Administration (NHTSA). The testimony at your hearings revealed callous indifference by the manufacturer, misconduct by corporate officials who failed to provide accurate and complete information to government investigators, the use of ex-NHTSA employees to influence the defect investigation conducted by their former colleagues and the failure of the agency to exercise due diligence and basic oversight of a lethal safety defect. The Motor Vehicle Safety Act of 2010 reported by your committees is a significant and overdue response to the safety problem and issues identified. We commend you for your leadership.

Yet, after already obtaining compromises in numerous important provisions of the bill, the car companies have joined forces with a myriad of auto suppliers, dealers and the U.S. Chamber of Commerce in an attempt to further eviscerate this Act. Already, the car companies have managed to avoid inclusion of the following important responsibilities in the original bills:

- * Requirements for issuance of the pedal placement and electronics systems performance standards in the House bill were made discretionary rather than mandatory, and the standards for pedal placement, transmission labeling and push button ignition systems are now discretionary in the Senate bill;
- * All requirements for lead time for implementation of new safety rules were deleted from both the Senate and House bills;
- * Maximum civil penalty caps of \$200 million in the House and \$300 million in the Senate were inserted in the legislation even though there is a separate maximum limit of \$25,000 per violation;

- * Penalties for submission of false information by corporate officials to NHTSA were drastically reduced from \$50,000 per day and a maximum of \$250 million to \$5,000 per day and a maximum of \$5 million in the House bill, and to a maximum of \$10 million in the Senate, and in the House bill only a corporate employee, not a corporate officer, can be held accountable for submitting false, misleading and incomplete information;
- * The specific requirements for collection of data electronically in a crash were watered down and collection of rollover crash data in crashes that kill 10,000 people a year is still discretionary;
- * Industry objections to important additional consumer and safety protection to provide public disclosure of early warning death reports, clarification of safety defect reporting requirements by type of vehicle system, and disclosure of private meetings between NHTSA and company officials on pending defect and enforcement proceedings have been kept out of the legislation.

Now, in a July 15, 2010 letter to your committees, the auto manufacturers and their allies have suddenly accelerated their demands and are asking Congress to eliminate some of the most critical provisions in the Act.

In House Bill 5381 the car companies want to eliminate:

Section 201: Public Availability of Early Warning Data (EWD)

After documented evidence that Toyota completely ignored its responsibilities under current EWD requirements, these companies have the audacity to suggest that this information should continue to be secret. While offering the standard protections for company confidential trade secret information, Section 201 requires NHTSA to make conduct rulemaking to determine what categories of information to make public. More public disclosure will enable the American public to have access to critically important safety information and rebuild confidence in NHTSA. Not making information available only perpetuates the cozy relationship between NHTSA and the car companies that enabled the Toyota crisis in the first place.

Section 206: Appeal of Defect Petition Rejection

For 22 years, from 1966 through 1988, NHTSA decisions to deny defect petitions and close investigations without recalls were subject to judicial review in federal court. Yet only two cases were litigated during that period. The first case led to the landmark decision defining what constitutes a safety defect. The “Kelsey Hayes Wheels” case (*U.S. v General Motors Corp.*, 518 F.2d 420 (D.C. Cir. 1975)), which established the proposition that a defect can be proven based on a non-*de minimus* number of failures without any showing of a specific defect, involved a small, limited recall of wheel failures of GM pickups with camper bodies. That decision, which led to a much broader recall, would never have been issued if judicial challenges to the agency’s rejection of a defect petitions had not been permitted at the time. Contrary to what the auto companies allege, the second case, *Center for Auto Safety v Dole*, 846 F.2d 1532 (D.C. Cir. 1988), resulted in an initial decision *in favor of reopening the investigation* but was later reversed on the grounds that the petitioners lacked standing to sue – which the House bill would correct.

Section 301: Vehicle Safety User Fee

Every time an American consumer buys a car, the car companies and dealers exert extraordinary pressure on the consumer to overpay for unneeded products. Extended service

contracts are marked up 10 times their cost; fabric sealant, paint treatments, and other add-ons are of no value; overpriced financing; and, delivery fees that are typically over \$500 represent thousands of dollars of charges that car companies are happy to impose — yet these same companies are objecting to a minimal \$9 charge to insure that NHTSA can carry out its research, regulatory and enforcement responsibilities. At the same time, all across the country, auto dealers are lobbying states to raise or eliminate the cap on document fees which range up to \$900 in states without caps and as low as \$55 in states with caps. Consumers are charged exorbitant costs for paperwork which is now completed in minutes and submitted electronically. With the average new car price nearing \$30,000, a \$3 to \$9 fee is an insignificant sum that consumers would willingly pay to ensure that their new vehicle doesn't have a deadly safety defect like sudden acceleration. Clearly, what the manufacturers are objecting to is insuring a fully funded regulatory agency that may hold them accountable to the law.

Section 501: Preemption of State Law

While the manufacturers want is for NHTSA to be able to declare federal preemption rights to encourage state court judges to dismiss legitimate liability cases. Ironically, it is the auto dealers who are the greatest beneficiary of a myriad of state laws and legal rights. Dealers rely on the wide variation in state laws when it comes to their responsibilities in selling motor vehicles, but the auto industry seeks to use federal preemption to bar consumers from recovering for safety defects when they are injured. Allowing federal executive agencies to determine the reach and extent of their own regulations in the arena of federal preemption of state judicial decisions is unwise and a usurpation of the roles of the judiciary and Congress.

In Senate Bill 3302 the car manufacturers want to eliminate:

Section 201: Civil Penalties:

The current, arbitrary \$16 million cap is significantly increased in both the House and Senate bills so the penalties will serve as a deterrent for multi-billion dollar manufacturers. Even the smallest of auto makers generates billions in revenues each year. Currently, they have made a mockery of NHTSA's paltry civil penalties, and treat them simply as a cost of doing business. In fact, a Toyota employee even bragged about avoiding a \$100 million in sudden acceleration recall costs when the scope of a 2007 sudden acceleration recall was limited. This sum dwarfs the current maximum civil penalty that NHTSA could impose and thus serves as no threat or deterrent to illegal corporate activity.

Increasing the cap does not affect NHTSA's responsibility to award the penalties in a reasonable fashion. The maximum penalty needs to be sufficiently high to provide a reasonable deterrent for the biggest, wealthiest corporations. But the agency has no interest or intent to use civil penalties to put companies out of business and has never done so. NHTSA imposes lesser penalties against small companies for lesser violations, while reserving the million dollar penalties for the billion dollar auto companies that have committed major violations. The claim that the agency might impose the maximum penalty on small suppliers is ludicrous. The use of civil penalties is a common statutory means to promote compliance by regulated parties, but the penalties must be commensurate to the task and sufficient to deter violations of law. Significantly increasing the current statutory cap is essential to help ensure future compliance with the law.

Section 307: Corporate Responsibility

While no doubt company safety officials will be involved in certifying submissions to NHTSA in safety and defect investigations, it is imperative that these be signed by a corporate officer, not just senior company employees. Time and again, the car companies have blamed non-compliance with required rules and regulations on ‘errant’ employees. This process lacks personal, individual responsibility by the most senior corporate officials for corporate actions, especially when NHTSA must rely on the information provided by companies to accurately assess safety threats. This behavior makes it mandatory that corporate officers, with formal legal and fiduciary obligations for the operation of the company take responsibility for these submissions. Not only will it enable the government to get a more accurate and complete response to safety inquiries, but it will also allow NHTSA to truly hold car companies and their senior officers accountable for the accuracy and completeness of their submissions, and even protect the auto companies from mistakes made by these ‘errant’ employees.

Section 310: Used Passenger Motor Vehicle Consumer Protection

The car companies and the U.S. Chamber of Commerce claim that informing consumers about safety recalls on used cars would decrease the ability of consumers to afford used cars. In reality, what they are really saying is that used car consumers are second-class citizens who should be kept in the dark about the safety of the used cars they buy and risk driving a defective vehicle. Company opposition to this reasonable, common sense requirement is more about preserving profits than protecting consumers. Not only is informing customers about potential safety problems appropriate business and ethical behavior, it is very easy for dealers to go online with a vehicle identification number (VIN) and determine the recall status of the cars that they are selling. In fact, not doing so, given their ready access to this information, demonstrates a blatant disregard for the safety and well-being of their customers. For the car companies and the U.S. Chamber of Commerce to claim that this would decrease the ability of consumers to afford their used cars, is equivalent to saying that keeping consumers in the dark about safety recalls allows them to charge more for potentially defective vehicles. Furthermore, given that recall completion rates currently hover only around 75%, it is absurd to claim that requiring dealers to check for outstanding recalls would not provide “any identified commensurate safety benefit.” This assertion would be laughable if it did not represent a tragic disregard for their customers. The industry and business leaders who support this notion are, in essence, calling for a return to *caveat emptor* for purchasers of used vehicles.

The criticisms and concerns expressed by auto interests and the Chamber of Commerce are unfounded, unreasonable and unworthy of your consideration.

Sincerely,

Joan Claybrook
President Emeritus
Public Citizen

Clarence Ditlow
Executive Director
Center for Auto Safety

Jack Gillis
Director of Public Affairs
Consumer Federation of America

Ami Gadhia
Policy Counsel
Consumers Union

Jacqueline S. Gillan
Vice President
Advocates for Highway and Auto Safety

**Consumers for Auto Reliability and Safety
CALPIRG
Consumer Action
Consumer Federation of California
Consumer Watchdog**

July 20, 2010

Honorable Nancy Pelosi
Speaker of the United States House of Representatives
Room 235 Cannon House Office Building
Washington, DC 20515

Honorable Henry Waxman
Chairman, U.S. House Committee on Energy and Commerce
Room 2204 Rayburn House Office Building
Washington, DC 20515

Re: H.R. 5381, The Motor Vehicle Safety Act of 2010: \$9 fee to support the National Highway Traffic Safety Administration.

Dear Speaker Pelosi and Chairman Waxman:

On behalf of our California-based non-profit pro-consumer organizations, we write to urge you to support enactment of H.R. 5381, including the very modest and necessary auto safety user fee.

In a recent letter, the Alliance of Automobile Manufacturers, National Automobile Dealers Association, and others opposed key provisions of the bill, including the user fee. They made the misleading claim that the fee is "open ended," when in fact it is capped initially at \$3 per new vehicle, then gradually raised to a maximum of \$9 per new vehicle.¹

To put this into context: in order to save lives and prevent debilitating injuries, and reduce the human and economic toll of vehicle crashes, which cost our nation over \$231 billion annually, auto interests would be assessed a mere \$3, gradually phased in and capped at \$9, per new vehicle sold.

Even the auto interests themselves acknowledge in their letter that "Highway safety is a national priority -- promoting reductions in health care costs associated with accidents and protecting pedestrians as well as vehicle owners."²

We urge you to reject the auto interests' misleading claims, which are absurd on their face. In

¹ Letter dated July 15, 2010, sent by the Alliance of Automobile Manufacturers and others to Reps. Waxman and Barton and Senators Rockefeller and Hutchison.

² Ibid.

light of the billions in extra charges that auto dealers and captive auto finance arms of the various auto manufacturers extract from the car buying public, through common scams, the proposed user fee is singularly justifiable and reasonable. Unlike the hidden costs imposed by auto manufacturers and dealers, the fee is also open and transparent.

Two of the most common costs imposed by auto dealers and lenders upon California car buyers:

- Over \$2.7 billion in hidden, undisclosed auto dealer markups (also known as "dealer reserve" or "dealer participation")³ -- increases in the APR charged for auto loans. Markups reflect the little-known fact that auto dealers receive incentives from lenders to raise the interest rates above the rate for which the borrower qualified. These are added fees that impose the greatest burden on those who are least able to pay the added costs -- those with little or no credit history, such as students and people with damaged credit.
- \$45 and \$55 in dealer "document fees" per transaction, imposed by dealers upon consumers who purchase or lease a new vehicle

In fact, the auto dealers themselves have sought to raise California's statutory document fee cap to \$65 per transaction, including both leased and purchased vehicles -- an increase of \$10 per purchased vehicle (from \$55 to \$65) or \$20 per leased vehicles (from \$45 to \$65).⁴

According to automotive experts, the "document fee" charges bear little or no relationship to the actual work performed. In fact, the transactions are generally done electronically and take very little time or skill to complete. Adding insult to injury, the fees are typically on pre-printed forms and if consumers question them, they are often told verbally that the fee is required by the government.

Also, through common scams such as "yo-yo" financing (a form of bait-and-switch), "powerbooking" (claiming vehicles have upgraded "phantom" equipment to trick lenders into approving loans for vehicles that are insufficient collateral for the loans), "loan packing" (misrepresenting the cost of high-profit items with little or no intrinsic value), and other scams, auto dealers and captive auto lenders extract billions more from car buyers, without their knowledge or consent.

Finally, auto dealers have been granted special monopolies by each of the states, including California, which insulate them from competition and further raise the price of new vehicles, causing a ripple effect that also increases the cost to purchase used vehicles. Auto dealers have aggressively resisted attempts to break their monopoly hold on the new car market and make the market truly competitive.⁵

It is important to note that none of the added fees described above provide any benefit whatsoever to the public, unlike the proposed \$3-9 safety user fees, which will reduce deaths, injuries and economic losses and save the public billions in health care costs, lost productivity, and related costs.

³ According to the Center for Responsible Lending, during 2007. For more details, see: <http://www.responsiblelending.org/other-consumer-loans/auto-financing/auto-dealers-lending-abuses-cost-billions.html>

⁴ See AB 1939 DeSaulnier, sponsored by the California New Car Dealers Association

⁵ See, for example, AB 1223 (Leno), introduced in 2005, which would have allowed particularly fuel-efficient cars to be sold over the internet, without car buyers having to spend hours at auto dealerships.

We applaud Chairman Waxman for his leadership on this vital issue, and urge Congress to enact H.R. 5381 without any of the auto industry's weakening amendments.

Thank you for your consideration of our views. Should you or your staff have any questions regarding our position, we hereby designate Rosemary Shahan, President of Consumers for Auto Reliability and Safety (CARS) as our contact person. She can be contacted as specified below.

Sincerely,

Rosemary Shahan
President
Consumers for Auto Reliability and Safety
Tel: 530-759-9440
E-mail: autosafety@earthlink.net

Pedro Morillas
Legislative Advocate
CALPIRG

Linda Sherry
Director of National Priorities
Consumer Action

Richard Holober
Executive Director
Consumer Federation of California

Carmen Balber
Washington, D.C. Director
Consumer Watchdog

**Statement of Jacqueline S. Gillan, Vice President
Advocates for Highway and Auto Safety
In Support of House Passage of H.R. 5381, Motor Vehicle Safety Act of 2010**

July 21, 2010

I am here today to lend the strong support of Advocates for Highway and Auto Safety (Advocates) to House passage of H.R. 5381, the Motor Vehicle Safety Act of 2010. On May 26, 2010, the House Energy and Commerce Committee, under the leadership of Chairman Henry Waxman (D-CA), took up and sent to the full House for consideration one of the most important auto safety bills to be proposed by Congress in recent years, and it needs to be. As many as 93 deaths and many more injuries may be linked to the thousands of sudden acceleration complaints filed over the past 10 years by consumers. The United States Senate and House of Representatives held 10 hearings examining sudden acceleration defect problems, the resources and responses of the National Highway Traffic Safety Administration (NHTSA) and the frustration of consumers dealing with corporate indifference and a confusing federal bureaucracy. Congressional hearings brought to light many serious problems and shortcomings that are addressed in this legislation.

We learned of the denial of the defect problem by a company that thought itself too safe to fail and that conducted recalls in other countries while letting customers in the U.S. continue drive without any warnings or needed repairs.

We found out that the federal safety agency could dismiss repeated consumer complaints with little evidence or explanation.

We saw that NHTSA's funding and staff resources were outmatched by a sophisticated and well-financed corporation hiring former agency employees to lobby former co-workers.

Most of all, we listened to harrowing first-hand accounts of victims who experienced the horror and tragedy that sudden acceleration or any vehicle safety defect can cause.

In response, the House Energy and Commerce Committee, with consultation from all stakeholders, drafted the Motor Vehicle Safety Act which takes a comprehensive approach by requiring that new safety standards are issued, new safety procedures are followed, new responsibilities are imposed and new enforcement authority is exercised in order to ensure greater public safety and accountability. The bill requires company officials to be more honest, responsive and forthcoming in defect investigations, and dramatically increases the monetary fines that can be imposed for violations of the law. It requires new rules be issued to prevent this defect from continuing, to make vehicles easier to stop when there is a safety problem, and to gather objective data on the vehicle's performance during an incident. The bill grants NHTSA new authority to conduct expedited recalls of dangerous vehicles while also mandating reforms to repair the systemic failures of agency oversight by providing more public information and requiring

greater transparency about agency handling of defect problems. One of the most important provisions restores the right of consumers to sue in federal court when the agency has unreasonably denied their defect petition.

An essential part of the solution to preventing another Toyota fiasco is adequate and sustained funding for motor vehicle safety programs that have been short-changed these past 15 years. Increases in annual authorization levels for NHTSA and a modest new vehicle user fee of \$3 to \$9 per vehicle will ensure a dedicated funding stream.

The Motor Vehicle Safety Act is needed to rein in companies that display a callous disregard for consumers and for the truth, to reduce the number of safety defects that cost countless lives and result in the recall of millions of vehicles each year, and to protect the lives of families who trust that their car will operate safely. When enacted, this legislation will represent a significant improvement in the way safety is regulated, administered and enforced.

Statement of Joan Claybrook,
Former Administrator of the National Highway Traffic Safety Administration
President Emeritus of Public Citizen

H. R. 5381, The Motor Vehicle Safety Act of 2010

Ready to Roll

The Motor Vehicle Safety Act of 2010 is overdue. It makes instrumental improvements in the enforcement operations of the National Highway Traffic Safety Administration (NHTSA), and would require key motor vehicle safety improvements, correcting many deficiencies that lead to at least 89 deaths from Sudden Acceleration in Toyota vehicles. The Congress has held numerous hearings, the legislation has been subject to extensive scrutiny, and it has been passed through subcommittee and full committee. We are ready for final action now.

One of NHTSA's long neglected problems is the lack of sufficient funding. H.R. 5381 confronts that problem head on. In section 301, NHTSA's authorization is very significantly increased--to \$280 million by 2013--for the first time since 1966 when the agency was enacted into law in the midst of guns vs. butter austerity. In Section 302, a Vehicle Safety Fund is created with a tiny user fee of \$3 initially, reaching \$9 in two years, on each new passenger vehicle made in compliance with NHTSA safety standards. This is about the cost of a movie ticket or three gallons of gas. Such a fee is not unlike ones that funds new drug approvals, 911 access, airport security and highway building with the gas tax.

In support of these funding improvements, two other former NHTSA Administrators, Ricardo Martinez, M.D. from the Clinton Administration and Jeffrey Runge, M.D. in the Bush years, have signed a letter with me to Chairman Henry Waxman and Ranking Member Joe Barton, urging support for these sections of the bill. We hope that our ability to work for a common goal of increased funding for NHTSA will encourage members of Congress to come together and support this legislation.

Unfortunately the motor vehicle industry and the U.S. Chamber of Commerce have attacked the fee. Their position is absurd given the overcharges they regularly extract from new car buying consumers. These include:

- Extended service contracts costing \$1,000 when average pay out is less than \$250
- Finance charges marked up by 2.5% adding \$1,000 to the new car costs

- Useless corrosion and undercoating costing \$250
- \$350 for paint protection with a paint sealer costing dealers \$25
- \$500 for fabric protection that costs companies \$10 to \$20
- \$500 in so-called delivery and destination charges

These add-ons can easily add \$2500 to \$3500 in “extras”. They make a mockery of their industry, wining about \$9 on a \$28,000 average new car. What the auto companies really object to is fully funding the regulatory agency that can then hold them accountable under the law.

Just last week the companies sent a letter complaining about this and other provisions in the bill, despite the fact that during the give and take of the legislative process a number of adjustments were made at their request, including deleting all the deadlines for implementation of new safety standards, giving NHTSA the discretion to issue the pedal placement and electronics safety standards rather than mandating them, capping the increased civil penalty at \$200 million, drastically reducing penalties for corporate officials for submission of false information to NHTSA, and generalizing some specific requirements for collection of data electronically in a crash, giving NHTSA discretion to decide the final provisions, including whether to require collection of rollover data in crashes that kill 10,000 people a year.

In addition, industry objections have kept out of the legislation public disclosure of early warning death reports, clarification of safety defect reporting by type of vehicle system, and disclosure of private meetings between NHTSA and company officials on pending defect and enforcement proceedings.

Now the companies also want to stop NHTSA from considering opening up early warning safety defect information which can warn the public of potential safety defects in their vehicles, they want to prevent citizens from appealing to the courts a rejection of a defect petition (like the 6 NHTSA rejected on Toyota sudden acceleration—resulting in no action by NHTSA on Toyota sudden acceleration recalls for years and 89 people being killed), and they want NHTSA to be able declare in its safety rules that compliance with them by auto companies preempts citizens from challenging the company primarily in state court for making an unsafe product. These after-the fact requests to delete some of the most critical provisions in H.R. 5381 are unfounded, unreasonable and unworthy of consideration.

We urge the House to pass this important bill now. The auto industry delaying tactics should be dismissed.

Statement of Rhonda Smith
Sevierville, TN
Press Conference on H.R. 5381, the Motor Vehicle Safety Act of 2010
July 21, 2010

Good afternoon, my name is Rhonda Smith and I am a retired social worker from the State of Tennessee and I live in Sevierville. For 38 years, I have been married to Eddie, and we have two children as well as two beautiful grandchildren. On October 12, 2006 I thought I would never see my family again when our car, a Lexus 350 ES, experienced sudden unintended acceleration or SUA. I literally feared for my life when the car accelerated to over 100 mph for several miles. I called Eddie on the Bluetooth phone system to say goodbye. I tried everything to slow down the car from almost standing on the brake, very firmly engaging the emergency brake, shifting the car into neutral and shifting to other gears. I weaved in and out of traffic looking ahead to see if I could maneuver around approaching cars and trucks or if I needed to put the car into the upcoming guardrail and trees in order to save other lives. Thankfully, my car slowed down and I was able to pull the car over and turn off the ignition once it revved down to 33 mph. Eddie arrived on the scene to calm me down and take me home, but I never drove the car again.

When Eddie inspected the vehicle he found no abnormalities or obvious problems that would cause this sudden unintended acceleration. We called a wrecker, and the car even tried to start again. The Toyota Field Specialist, Leonard St. Amand, stated he could not find anything wrong with the vehicle, so we contacted Toyota directly. Weeks passed and we made more attempts to discuss the sudden unintended acceleration with them. Finally we forced a written reply which merely stated “when properly maintained, the brakes will always override the acceleration”.

This answer was unacceptable, and unbelievable to us. Just because there is absence of proof, there is not proof of absence. The back-and-forth with Toyota went on for months without our ever receiving a reasonable explanation. We also contacted NHTSA, and in March 2007 they sent out a Safety Defects Engineer to inspect the vehicle. He reported that it was “probably” the floor mat. In early 2008 we gave up, as we figured we could not fight such a big industry by ourselves. The experience was traumatic enough, and we weren’t getting anywhere with Toyota or NHTSA after almost a year of this run-around.

We don’t want another family to go through this nightmare. We don’t want auto companies like Toyota to ignore safety problems, especially because of their greed. But we do want the National Highway Traffic Safety Administration to have the resources to identify safety defects and the legal tools to hold automakers responsible for irresponsible behavior. Vehicle safety defects kill and maim innocent victims, and leave heartbreak and mental anguish with the families.

Last February, Eddie and I testified before Congress about my close call with death because of sudden unintended acceleration. Several more hearings in the House of

Representatives identified actions that need to be taken to protect people like me. The Motor Vehicle Safety Act of 2010 or H.R. 5381 addresses problems identified in the hearings and proposes commonsense and cost-effective solutions to protect our safety.

Eddie and I strongly support enactment of H.R. 5381. The legislation requires action on new federal motor vehicle safety standards, improves public access to safety defect information, holds auto manufacturers accountable for submitting false, misleading, or incomplete information to NHTSA, imposes higher fines that will put public safety ahead of corporate profits, and increases funding for the agency responsible for overseeing the safety of our vehicles.

Just as the livelihood of the auto industry worker depends on the sales of vehicles, the livelihood of our families depend on the safety of these same vehicles.

It's time Congress stood up for our safety. I urge the House of Representatives to pass this lifesaving legislation and to reject weakening this bill because of auto industry objections. It would be a shame for Congress to let this bill be weakened any further by the auto industry.

Statement of Bulent Ezal
Pismo Beach, CA
Press Conference on H.R. 5381, the Motor Vehicle Safety Act of 2010
July 21, 2010

My name is Bulent Ezal. I am a retired engineer and financial consultant, having worked for Mobil Oil as well as Dean Witter / Morgan Stanley for over forty years, combined.

In the early afternoon of February 25, 2007, I was parking my 2005 Toyota Camry at a restaurant in Pismo Beach, California. My wife of 46 years, Anne, was with me. As I had nearly stopped, and was about to put my vehicle in park with my foot on the brake, the engine suddenly roared, and the vehicle pulled away suddenly, throwing me back into my seat. The car climbed a low curb, crossed a wide sidewalk, broke through two small fences, and plunged off a cliff. The last thing I remember is seeing the sky in front of me and hearing my wife scream. Our car fell 100 feet to the rocks below, flipped onto its roof, and then back onto its wheels, coming to rest in the surf.

I learned later that my wife was found dead at the scene. I was pinned in the vehicle. Skilled rescuers from the Pismo Beach Police Department, Fire Department, Paramedics and Special Rescue Team were able to extricate me and raise me up the vertical cliff in a basket and transport me to the hospital, where I spent several days under observation. Luckily my injuries were not life threatening, and I was released to my personal physician.

I was a loyal Toyota owner for many years. I had my dealer do all the maintenance on my vehicle. I am a methodical person, and kept my car in good condition. I washed the car myself just a day or so before the accident, and insured that my driver's side carpeted floor-mat was snapped in place and secure.

I've had no other accidents, not even fender-benders, since we returned to the United States from overseas in 1977, up to the time of this tragic event. I was, and am, in excellent health. I still play singles tennis, swim a mile twice a week, and work out at a gym. On the day of the accident, which occurred at approximately 1:00 pm, I had not had any alcohol or medications.

This was the first time I had ever experienced an unwanted acceleration. After learning about the thousands of complaints, the inadequate investigations made by our government of accidents that took the lives of others before my incident, and of the alternative designs that would prevent the problem, I am deeply saddened. Toyota's negligence in making a defective product caused the death of my college sweetheart, my wife of over forty-six years, my best friend, Anne. She will be missed not only by me, but by her son Kenan and her grandchildren Jazlyn and Tarkan, as well as by her many friends.

I ask only that Toyota fix the problem with their vehicles, or at least put in the appropriate failsafe systems that would prevent an unwanted acceleration event. And I urge Congress to pass

this legislation, H.R. 5381, the Motor Vehicle Safety Act of 2010, to help in preventing a situation like this from ever occurring again.

Thank you for your time, today.

Bulent Ezal

**Statement of Lilia Alberto for the Alberto Family
Flint, MI
Press Conference on H.R. 5381, the Motor Vehicle Safety Act of 2010
July 21, 2010**

We are here today because we have experienced the terrible loss of our mother, Guadalupe Alberto, in the sudden, unintended acceleration of her 2005 Toyota Camry, and we believe that our participation here today will help raise public awareness of the sudden acceleration problems in Toyota vehicles and, we hope, spare others from becoming victims of such tragic incidents.

Shortly after 2:00 in the afternoon of Saturday, April 19, 2008, our mother left her Flint, Michigan residence in her Camry to make lunch for our father and work at their nearby grocery store. She drove her same daily route to and from the store, drove often around Flint during the work week and to church on Sundays but rarely drove above 45 mph.

Her Camry was well-maintained and Mom was the usual driver. As we now know, it was equipped with Toyota's electronic throttle control system, known as the ETCS-i.

She began driving down Copeman Blvd., in our residential neighborhood where the posted speed was 25 mph. At some point her car suddenly began to accelerate to a high rate of speed. She struggled to maintain control as she sped straight through four intersections with stop signs. Remarkably, she was able to avoid hitting anything or anyone, even though one of the cross streets, Ballenger Highway, was four lanes across and heavily travelled. An eyewitness observed her Camry blow through the final stop sign, jump the curb, sideswipe a tree and go airborne, and then slam into a large tree more than five feet above the ground. He described her in her last moments before impact as having both hands on the wheel, sitting upright, trying to regain control and clearly terrified. We think the vehicle was traveling nearly eighty miles per hour when it crashed into the second tree.

Our Mom, 77 years old, who had enjoyed excellent health and had properly secured her seat belt, died at the scene, which was about four-tenths of a mile from our family home.

My brother-in-law contacted the federal government and requested an investigation. The National Highway Traffic Safety Administration ("NHTSA") assigned investigation of the case to the Calspan Special Crash Investigation (SCI) team. The facts are that the driver's-side floor mat was not in the vehicle at the time of the crash. It had been removed for cleaning. The medical examiner found that there were no pre-crash medical conditions that could have contributed to the crash. NHTSA and Calspan apparently never considered the possible involvement of the ETCS-i or any other electronic component; nothing in the record indicates that the electronic throttle control system's design or its components were examined for possible failure modes.

Our family also contacted Toyota, but found the company to be rude and dismissive. Toyota's Claims Manager, Carole A. Hargrave, sent a letter dated June 5, 2008, to my brother-in-law. In it, Ms. Hargrave claimed that "there are built in sensors and failsafe logic for the accelerator pedal and the throttle position" and that "based on our inspection of the vehicle it has been determined that no manufacturing or design defect was identified that caused or contributed to the accident."

Because Toyota has refused to accept responsibility for the defects in the Camry, including the lack of a failsafe system, all of which led to our mother's death, we filed a civil action in state court in Flint. That action is proceeding at this time. In the meantime, we hope that increased public awareness of the problem will help others avoid what happened to our mother.

CENTER FOR AUTO SAFETY

1825 Connecticut Avenue, NW Suite 330 Washington, DC 20009-5708 (202) 328-7700

Statement of Clarence M. Ditlow
Executive Director, Center for Auto Safety
July 21, 2010

Today we stand at a make or break point in auto safety – will Congress pass a strong Motor Vehicle Safety Act of 2010 to give the National Highway Traffic Safety Administration (NHTSA) the regulatory and financial resources it needs to hold the auto industry accountable and eradicate vehicle crashes as the cause of tens of thousands of deaths and millions of injuries that cost the nation a quarter of a trillion dollars in economic losses every year.

NHTSA is a wonderful agency with a vital mission but it is woefully underfunded, understaffed and outgunned by the industry it regulates. To expect today's NHTSA to adequately regulate the trillion dollar auto industry is like asking a high school baseball team to beat the NY Yankees. Toyota alone had annual income of \$218 billion in 2008 compared to NHTSA's annual vehicle safety budget of less than \$200 million.

Unlike such other public health and safety agencies, NHTSA doesn't even have its own research facility. Instead it must rent space at a facility owned by Honda. The agency has no significant electronics expertise even though the computers in today's cars are more complex than those in a jet fighter. To increase its advantage over the agency, auto companies like Toyota hire away top agency officials to lobby their former employer.

Whether it's the Ford Pinto in the 1970's, GM pickups with side saddle gas tanks in the 1980's, Ford Explorers with Firestone tires in the 1990's, or Toyota sudden acceleration in the 2000's, there's a common thread: Non-existent and inadequate safety standards coupled with enforcement efforts playing catch up to an industry striving to avoid recalls. If the industry wins the bet and the agency never catches up, individual companies can save hundreds of millions of dollars in avoided recalls as Toyota bragged about in sudden acceleration. If they lose and contain the loss at NHTSA, the worst case scenario is a fine of \$16.4 million. What goes unsaid is that the innocent bystanders, consumers, pay with their lives.

The American public has a right to a safe car but has no way to exercise that right unless Congress passes the Motor Vehicle Safety Amendments of 2010 with a \$9 user fee to finance a strong, independent and vigorous safety agency.