

EMBARGOED Until:
12:01 a.m. EDT Wednesday, September 25, 2013

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**As Death Toll Grows, Obama Administration's Transportation Department
Sued for Failing to Issue Auto Safety Rule Mandated by Congress**

*Bipartisan 2008 Law Supported by Then-Senator Obama Ordered Agency to Issue Rear
Visibility Rule by 2011*

Note: The parties that are filing the lawsuit will speak on a press conference call at 1 p.m. EDT Wednesday, Sept. 25. Reporters can call in to: (877)-366-0711, participant code 24687948.

WASHINGTON, D.C. – Safety advocates and two parents who unintentionally hit their children when backing up sued the U.S. Department of Transportation (DOT) today, asking a court to order the agency to promptly issue a safety rule mandated by Congress in 2008 to set federal standards on vehicles' rear visibility. DOT estimated that the rule it proposed in 2010 but has failed to finalize would prevent 95 to 112 deaths and 7,072 to 8,374 injuries each year when implemented. Congress ordered the rule issued by 2011, but the administration has repeatedly delayed and has now postponed the rule until 2015.

Each year, more than 200 individuals are killed and 18,000 injured in “backover” crashes. Drivers using all three mirrors cannot see a blind zone several feet high directly behind their vehicles. Forty-four percent of those killed in backover incidents are children under 5 years old. Each week, on average, 50 children are injured, two fatally, by backover crashes.

In 2008, Congress enacted the Cameron Gulbransen Kids Transportation Safety Act, which directed DOT to issue a rule requiring significantly improved rear visibility in new consumer vehicles, through backup cameras or other means. The bill passed the House by voice vote and the Senate unanimously, and President George W. Bush signed it into law. The law required that DOT issue the rule within three years, and permitted the agency to extend the deadline only if it “cannot be met.”

DOT initially made progress in the rulemaking, issuing a proposed rule in December 2010. In November 2011, the agency sent its final draft of the rule to the White House's Office of Management and Budget (OMB) for review, where it remained for 19 months. Then in June 2013, after DOT had already granted itself three extensions of the February 2011 statutory deadline, the agency withdrew the rule from OMB and pushed the deadline back yet again, to January 2015. DOT claimed that it needs time for more study – even though it has already conducted research it has characterized as “extensive.” DOT's projected completion date in 2015 is nearly four years after the deadline set by Congress and seven years after the law was passed.

Auto manufacturers have included rear-view camera systems in a growing number of cars, but many cars don't have them.

By DOT's own estimates, its delay past the statutory deadline has so far allowed between 237 and 280 preventable deaths – almost half of which have befallen young children – along with thousands of preventable injuries. By the same estimates, another 118 to 140 people will die in preventable backover crashes before DOT regulates – even assuming that DOT does not extend the date yet again.

The suit today was filed by Dr. Greg Gulbransen, Susan Auriemma, Consumers Union of the United States, Advocates for Highway and Auto Safety, and Kids And Cars, Inc., who are all represented in today's action by Public Citizen. Auriemma, of Manhasset, N.Y., backed over her 3-year-old daughter Kate in her driveway in 2005, injuring her; Gulbransen, of Syosset, N.Y., backed over his 2-year-old son Cameron in his driveway in 2002, killing him. The 2008 law is named after Cameron.

The legal action came in the form of a petition filed Wednesday in the U.S. Court of Appeals for the Second Circuit, in Gulbransen's and Auriemma's home state of New York. The petition asks the court to declare that DOT has unreasonably delayed the rule, and to direct DOT and its secretary, Anthony Foxx, to issue the rule within 90 days. The petition argues that the length of time DOT is taking is unreasonable under the Administrative Procedure Act, in light of the timetable set forth by Congress, DOT's failure to show that Congress's original deadline "cannot be met" as required by the statute and the cost to human life. The petition is available at: [\[URL\]](#)

Reporters wishing to speak to families who have been involved in a backover incident may contact Amber Rollins at (816) 216-7085 or amber@kidsandcars.org.

Comments from individuals involved with the case:

Dr. Greg Gulbransen said: "It's mindboggling that two more children like Cameron are killed every week, yet the administration is content to postpone doing anything about it. This isn't some technical abstraction, it's about actual people being injured and killed."

Susan Auriemma said: "After I backed over my own daughter and injured her, I worked to make sure this or something even worse would never happen to any other family. Democrats and Republicans in Congress came together to say they weren't going to let these needless deaths continue, but now their will is being thwarted."

Joan Claybrook, former administrator of the National Highway Traffic Safety Administration (NHTSA) and president emeritus of Public Citizen, said: "Further delays in issuing the safety standard are unacceptable and unnecessary. As a former administrator of the National Highway Traffic Safety Administration, I know that there is enough data to take action today. With each passing week, children throughout America will die or be horribly injured because a proven and effective safety solution is being withheld by DOT under pressure from the auto manufacturers."

Janette Fennell, president of Kids and Cars, Inc., said: “It’s easy for the administration to do nothing, but it’s the families across the country who pay the ultimate price when children are at risk of injury or death every day in their own driveways. We know there’s a problem, we know there’s a simple solution. The Transportation Department has a mission, duty and obligation to protect the public, but every day it stalls this rule, Americans unnecessarily remain in danger.”

Ami Gadhia, senior policy counsel for Consumers Union, said: “This rule has been delayed for years. More manufacturers are offering this critical safety feature, but we believe it should be standard in all new cars and trucks. Rear visibility technology can save lives, and the time for action is long overdue.”

Jackie Gillan, president of Advocates for Highway and Auto Safety, said: “Passing the Cameron Gulbransen Kids Transportation Act was not controversial in 2008 and implementing the law should not be controversial today. Democratic and Republican members of Congress supported enactment, along with consumer and safety groups, pediatricians, families whose children were killed in backover crashes and the auto industry. It is time to stop delaying and start solving a dangerous safety problem with a technology that is available and absolutely essential to saving lives.”

Scott Michelman, attorney for Public Citizen, said: “When Congress ordered this rule issued in three years, they meant three years, not seven. It’s time for a court to step in and make the Transportation Department issue the rule. No administration is above the law.”

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[Press Release](#)

- [Speaker Bios for 25 Sep 2013 Press Call](#)

[Letter to DOT Secretary Foxx on Rear Visibility Standard - 25 Sep 2013](#)

[Petition in the US Court of Appeals \(2d Circuit\) - Filed 25 Sep 2013](#)

Lawsuit Exhibits

- [Exhibit A - Gulbransen Declaration](#)
- [Exhibit B - Auriemma Declaration](#)

- [Exhibit C - Hershenov Declaration](#)
- [Exhibit D - Halford Declaration](#)
- [Exhibit E - Shecter Declaration](#)
- [Exhibit F - Mannering Declaration](#)
- [Exhibit G - Jacqueline Gilland Declaration](#)
- [Exhibit H - Janette Fennell Declaration](#)
- [Exhibit I - LaHood Delay Letter to Congress - 25 Feb 2011](#)
- [Exhibit J - OIRA Conclusion of EO Review - 16 Nov 2011](#)
- [Exhibit K - LaHood Delay Letter to Congress - 10 Jan 2012](#)
- [Exhibit L - LaHood Delay Letter to Congress - 28 Feb 2012](#)
- [Exhibit M - LaHood Delay Letter to US House - 20 Jun 2013](#)

[OTHER - LaHood Delay Letter to US Senate - 20 June 2013](#)

