

September 25, 2013

The Honorable Anthony Foxx
Secretary of Transportation
U.S. Department of Transportation
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

Dear Secretary Foxx,

We are writing to inform you that today our organizations, joined by two families who have suffered the tragic consequences of back over crashes, have filed suit to compel the agency to issue the final rule on the rear visibility standard. It is necessary to take legal action in order to address one of the most important and well-documented problems in motor vehicle safety, the lack of a rearward field-of-view standard to enable motor vehicle drivers to see what is behind the vehicle during backing maneuvers. According to the National Highway Traffic Safety Administration (NHTSA), the inability of drivers to be able to see what is in the blindzone immediately behind the vehicle results in 228 fatalities and between 17,000 and 18,000 injuries annually in back over crashes. These fatalities and injuries mainly affect pedestrians and pedacyclists who are struck by backing motor vehicles in private driveways, parking lots and other off-road locations.¹ Older people and young children bear the brunt of these crashes, with children under the age of five accounting for nearly half of the deaths. This is especially heart-wrenching because the driver is frequently a parent or other close relative of the injured child.

These deaths are preventable. That is why our organizations have long supported the need to establish a federal motor vehicle safety standard that would enable drivers to avoid back over crashes through the use of available, cost-effective technology. That is also why we worked with Democratic and Republican Members of Congress to support passage of the *Cameron Gulbransen Kids Transportation Safety Act* (Cameron Gulbransen Act), Pub. L. 110-189 (2008). This law directed the Secretary of Transportation (or his designee) to issue a final rule by February 28, 2011, to expand the driver field-of-view requirement to enable drivers to see people and objects that are behind their vehicle when backing, but permits the Secretary to set a new date if the original statutory deadline could not be met.

As you may know, the NHTSA issued an advanced notice of proposed rulemaking on March 4, 2009, and a proposed rule on December 7, 2010. In fact, a draft final rule that had been cleared by the Office of the Secretary of Transportation (OST) and was submitted to the Office of Management and Budget (OMB) on November 16, 2011.² The draft final rule remained under extended review at OMB until June 20, 2013, when then-Secretary LaHood issued the last of four delay letters setting a new date of January 2, 2015, for issuing a

¹ Because these deaths and injuries occur at locations that are not on the public roadways, these statistics are in addition to the number of pedestrians and pedacyclists reported as killed and injured each year in the NHTSA's Fatality Analysis Reporting System (FARS).

² Regulations are reviewed by OMB's Office of Information and Regulatory Affairs (OIRA).

final rule.³ The accumulated delay of nearly four years (46 months), after the original deadline set in law by Congress, is unreasonable and has derailed an important public safety rule that has the potential to save hundreds of lives, and prevent thousands of needless injuries, once the rule is issued. Every year of delay in the issuance of the final rule extends the timeline for requiring all vehicles to meet rearward field-of-view performance requirements. Every month of delay deprives the public of proven, life-saving safety technology that is already available as standard equipment in some makes and models, and as optional equipment in others. Every week of delay puts millions of pedestrians and others at risk of death or serious injury that could be prevented. Consequently, we cannot allow these unnecessary delays to continue and for that reason we seek a legal remedy.

Although Secretary LaHood's June 20, 2013, letter referred to the need to collect additional data through the NHTSA Special Crash Investigation (SCI) program, the agency has already investigated scores of SCI cases in which the lack of rearward field-of-view resulted in preventable deaths and needless serious injuries because the driver could not see the area immediately behind the vehicle, the exact situation the draft final rule submitted to OMB nearly two years ago was intended to rectify.

For these reasons, Public Citizen has filed on our behalf a petition for mandamus in federal court because of the inordinate administrative delay encountered in fulfilling this requirement of the Cameron Gulbransen Act. We urge you to consider the need to issue the final rule required by the Act, and to direct the NHTSA to issue the final rule without further delay. We look forward to working with you on this important matter and to improving motor vehicle safety. Thank you for your consideration.

Dr. Greg Gulbransen
Father of Cameron, killed in backover crash 10/19/02

Susan Auriemma
Mother of Kate, injured in backover crash 5/27/05

Janette Fennell
President and Founder
KidsAndCars.org

Joan Claybrook, President Emeritus, Public Citizen
Former Administrator, National Highway Traffic
Safety Administration (NHTSA)

Ami Gadhia, Senior Policy Counsel
Consumers Union
Policy & Action from Consumer Reports

Jacqueline S. Gillan
President
Advocates for Highway and Auto Safety

³ Letter from Secretary of Transportation Ray LaHood, to the Hon. Fred Upton, Chairman, House Committee on Energy and Commerce, the Hon. Henry A. Waxman, Ranking Member, House Committee on Energy and Commerce, the Hon. John D. Rockefeller IV, Chairman, Senate Committee on Commerce, Science and Transportation and the Hon. John Thune, Ranking Member, Senate Committee on Commerce, Science and Transportation, dated June 20, 2013, docket NHTSA-2010-0162-0251.