

Consumer Reports joins lawsuit against Transportation Dept. over delayed car backover rule

Safety advocates sue for the implementation of Congress-approved rear visibility standards

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Hidden dangers

Without a backup camera, you may not know what—or who—is behind your car. Consumer Reports, through its Consumers Union policy and advocacy arm, has joined safety advocates in filing a lawsuit against the U.S. Department of Transportation 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.

The DOT has 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 Obama 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 on their car often cannot see a blind zone several feet high directly behind their vehicles. Each week, on average, 50 children are injured, two fatally, by backover crashes. Forty-four percent of those killed in backover incidents are children under 5 years old. (Learn more about [kids and car safety](#).)

"This rule has been delayed for years. More manufacturers are offering backup cameras that activate when the vehicle is put in reverse—a critical safety feature, but we believe it should be standard in all new cars and trucks," Ami Gadhia, senior policy counsel for [Consumers Union](#), said. "Rear visibility technology can save lives, and the time for action is long overdue."

This is especially important at a time when many of the cars Consumer Reports tests have rearward visibility limited due to thick pillars, tall headrests, and high decks. A backup camera can reduce injuries and deaths, and unlike many safety features, this is one that drivers can truly appreciate daily for the convenience it provides in parking situations.

The history

In 2008, Congress enacted the [Cameron Gulbransen Kids Transportation Safety Act](#), which directed the 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 the DOT issue the rule within three years, and permitted the agency to extend the deadline only if it "cannot be met."

"Passing the Cameron Gulbransen Kids Transportation Act was not controversial in 2008 and implementing the law should not be controversial today," said Jackie Gillan, president of [Advocates for Highway and Auto Safety](#).

The 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 for review, where it remained for 19 months. Then in June 2013, after the 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. The Transportation Department claimed that it needs time for more study, even though it has already conducted research it has characterized as "extensive." The 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 backup camera systems in a growing number of cars, but many cars don't have them.

By the DOT's own estimates, its delay past the statutory deadline has so far allowed 237 to 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 the DOT regulates, even assuming that the department does not extend the date yet again.

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."

The action today

The suit today was filed by Greg Gulbransen, M.D., 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](#). 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.) Auriemma, of Manhasset, N.Y., backed over her 3-year-old daughter Kate in her driveway in 2005, injuring her.

The legal action came in the form of a petition filed 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 the DOT has unreasonably delayed the rule, and to direct the department and its secretary, Anthony Foxx, to issue the rule within 90 days. The petition argues that the length of time the Transportation Department is taking is unreasonable under the Administrative Procedure Act, in light of the timetable set forth by Congress, and the DOT's failure to show that Congress's original deadline "cannot be met" as required by the statute and the cost to human life.

<http://www.consumerreports.org/cro/news/2013/09/consumer-reports-joins-lawsuit-against-transportation-dept-over-delayed-car-backover-rule/index.htm>