

112TH CONGRESS
1ST SESSION

S. 1445

To designate certain conduct by car and truck rental companies relating to motor vehicle safety defects and recalls as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 28, 2011

Mr. SCHUMER (for himself, Mr. BLUMENTHAL, Mrs. BOXER, Mrs. FEINSTEIN, and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To designate certain conduct by car and truck rental companies relating to motor vehicle safety defects and recalls as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Raechel and Jacqueline
5 Houck Safe Rental Car Act of 2011”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) COVERED VEHICLE.—The term “covered ve-
4 hicle” means a motor vehicle that—

5 (A) is rated at 26,000 pounds gross vehicle
6 weight or less;

7 (B) is rented or leased without a driver;
8 and

9 (C) is part of a motor vehicle fleet of 5 or
10 more motor vehicles that is used for rental or
11 lease purposes by a rental company.

12 (2) DEFECT, MOTOR VEHICLE, MOTOR VEHICLE
13 SAFETY, MOTOR VEHICLE SAFETY STANDARD.—The
14 terms “defect”, “motor vehicle”, “motor vehicle
15 safety”, and “motor vehicle safety standard” have
16 the meanings given such terms in section 30102 of
17 title 49, United States Code.

18 (3) PERSON.—The term “person” has the
19 meaning given the term in section 1 of title 1,
20 United States Code.

21 (4) RENTAL COMPANY.—The term “rental com-
22 pany” means a person who—

23 (A) is engaged in the business of renting
24 or leasing covered vehicles; and

1 (B) uses for rental or lease purposes a
2 motor vehicle fleet of 5 or more covered vehi-
3 cles.

4 **SEC. 3. PROHIBITION ON RENTAL, LEASE, AND SALE OF DE-**
5 **FECTIVE CARS AND TRUCKS.**

6 (a) PROHIBITION.—

7 (1) IN GENERAL.—Except as provided in para-
8 graph (2), it shall be unlawful for a rental company
9 to rent, lease, or sell a covered vehicle on or after
10 the earlier of the date of receipt by the rental com-
11 pany of a notification ordered by the Secretary of
12 Transportation under subsection (b)(2)(A) of section
13 30118 of title 49, United States Code, or the date
14 on which a manufacturer gives notice to owners,
15 purchasers, and dealers pursuant to subsection (c)
16 of such section that the covered vehicle contains a
17 defect related to motor vehicle safety or does not
18 comply with an applicable motor vehicle safety
19 standard, unless the defect or noncompliance has
20 been remedied prior to rental, lease, or sale.

21 (2) EXCEPTION.—Paragraph (1) shall not
22 apply to a notification ordered by the Secretary
23 under subsection (b)(2)(A) of such section if en-
24 forcement of the order is set aside in a civil action
25 to which section 30121(d) of such title applies.

1 (3) DATE OF RECEIPT OF A NOTIFICATION.—

2 For purposes of paragraph (1), a rental company
3 shall be considered to have received a notification
4 described in such paragraph 5 business days fol-
5 lowing the date on which such notification was
6 mailed.

7 (b) NOTIFICATION DURING RENTAL OR LEASE.—If,
8 during a rental or lease period of a covered vehicle, a rent-
9 al company receives a notification pursuant to subsection
10 (b)(2)(A) or (c) of section 30118 of such title that the
11 covered vehicle contains a defect related to motor vehicle
12 safety or does not comply with an applicable motor vehicle
13 safety standard, the rental company shall immediately—

14 (1) contact the renter or lessee and any author-
15 ized driver for whom the rental company has imme-
16 diate contact information to inform such renter or
17 lessee and authorized driver of the defect or non-
18 compliance; and

19 (2) offer to provide such renter, lessee, or au-
20 thorized driver a comparable alternative vehicle, at
21 no additional cost to the renter, lessee, or authorized
22 driver, until the defect or noncompliance has been
23 remedied.

1 (c) EFFECTIVE DATE.—This section shall take effect
2 on the date that is 60 days after the date of the enactment
3 of this Act.

4 **SEC. 4. ENFORCEMENT BY FEDERAL TRADE COMMISSION.**

5 (a) IN GENERAL.—Violation of section 3 of this Act
6 shall be treated as a violation of a rule under section 18
7 of the Federal Trade Commission Act (15 U.S.C. 57a) re-
8 garding unfair or deceptive acts or practices. The Federal
9 Trade Commission shall enforce this Act in the same man-
10 ner, by the same means, and with the same jurisdiction,
11 powers, and duties as though all applicable terms and pro-
12 visions of the Federal Trade Commission Act (15 U.S.C.
13 41 et seq.) were incorporated into and make a part of this
14 Act.

15 (b) PENALTIES.—Any person who violates this Act
16 or any regulation prescribed under this Act shall be sub-
17 ject to the penalties and entitled to the privileges and im-
18 munities provided in the Federal Trade Commission Act
19 as though all applicable terms and provisions of the Fed-
20 eral Trade Commission Act were incorporated in and
21 made part of this Act.

22 (c) AUTHORITY PRESERVED.—Nothing in this sec-
23 tion shall be construed to limit the authority of the Com-
24 mission under any other provision of law.

1 **SEC. 5. ENFORCEMENT BY STATES.**

2 (a) RIGHT OF ACTION.—Except as provided in sub-
3 section (e), the attorney general of a State, or other au-
4 thorized State officer, alleging a violation of this Act or
5 any regulation issued under this Act that affects or may
6 affect such State or its residents, may bring an action on
7 behalf of the residents of the State in any United States
8 district court for the district in which the defendant is
9 found, resides, or transacts business, or wherever venue
10 is proper under section 1391 of title 28, United States
11 Code, to obtain appropriate injunctive relief.

12 (b) RIGHTS OF FEDERAL TRADE COMMISSION.—

13 (1) NOTICE TO FEDERAL TRADE COMMIS-
14 SION.—

15 (A) IN GENERAL.—Except as provided in
16 subparagraph (C), the attorney general of a
17 State, or other authorized State officer, shall
18 notify the Federal Trade Commission in writing
19 of any civil action under subsection (a), prior to
20 initiating such civil action.

21 (B) CONTENTS.—The notice required by
22 subparagraph (A) shall include a copy of the
23 complaint to be filed to initiate such civil ac-
24 tion.

25 (C) EXCEPTION.—If it is not feasible for
26 the attorney general of a State, or other au-

1 thorized State officer, to provide the notice re-
2 quired by subparagraph (A), the State shall
3 provide notice immediately upon instituting a
4 civil action under subsection (a).

5 (2) INTERVENTION BY FEDERAL TRADE COM-
6 MISSION.—Upon receiving notice required by para-
7 graph (1) with respect to a civil action, the Federal
8 Trade Commission may—

9 (A) intervene in such action; and

10 (B) upon intervening—

11 (i) be heard on all matters arising in
12 such civil action; and

13 (ii) file petitions for appeal of a deci-
14 sion in such action.

15 (c) CONSTRUCTION.—Nothing in this section shall be
16 construed—

17 (1) to prevent the attorney general of a State,
18 or other authorized State officer, from exercising the
19 powers conferred on the attorney general, or other
20 authorized State officer, by the laws of such State;
21 or

22 (2) to prohibit the attorney general of a State,
23 or other authorized State officer, from proceeding in
24 State or Federal court on the basis of an alleged vio-
25 lation of any civil or criminal statute of that State.

1 (d) LIMITATION.—No separate suit shall be brought
2 under this section if, at the time the suit is brought, the
3 same alleged violation is the subject of a pending action
4 by the Federal Trade Commission or the United States
5 under this Act.

6 **SEC. 6. CONSTRUCTION.**

7 Nothing in this Act shall be construed to prohibit an
8 individual from seeking any remedies available under any
9 provision of Federal or State law.

10 **SEC. 7. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRA-**
11 **TION REPORT ON SALES OF MOTOR VEHI-**
12 **CLES TO RENTAL COMPANIES WITHOUT**
13 **STANDARD SAFETY FEATURES.**

14 (a) IN GENERAL.—Not later than 180 days after the
15 date of the enactment of this Act, the Administrator of
16 the National Highway Traffic Safety Administration shall
17 submit to Congress a report on all matters relating to the
18 sales of motor vehicles to rental companies without safety
19 features that are normally included in the sales of such
20 motor vehicles to consumers.

21 (b) ELEMENTS.—The report required by subsection
22 (a) shall include the following:

23 (1) A description of the buying practices of
24 rental companies with respect to motor vehicles that
25 do not include safety features that are normally in-

1 cluded in the sale of such motor vehicles to con-
2 sumers.

3 (2) A description of the implications of such
4 practices on the safety of consumers.

5 (3) The recommendations of the Administrator
6 with respect to the regulatory and legislative actions
7 that can be taken to protect consumers with respect
8 to such practices.

9 **SEC. 8. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRA-**
10 **TION REPORT ON SALES OF MOTOR VEHI-**
11 **CLES BY RENTAL COMPANIES KNOWN TO IN-**
12 **CLUDE SAFETY DEFECTS BEFORE SUCH VE-**
13 **HICLES ARE RECALLED.**

14 (a) INITIAL REPORT.—

15 (1) IN GENERAL.—Not later than 180 days
16 after the date of the enactment of this Act, the Ad-
17 ministrator of the National Highway Traffic Safety
18 Administration shall submit to Congress a report on
19 sales of covered vehicles—

20 (A) by rental companies that are aware,
21 including by notice posted on the Internet
22 website of the Administration, such covered ve-
23 hicles may contain a defect related to motor ve-
24 hicle safety or may not be in compliance with
25 an applicable motor vehicle safety standard; and

1 (B) during the period—

2 (i) beginning on the date on which
3 such rental companies become aware that
4 such vehicles may contain such defects or
5 may not be in compliance as described in
6 subparagraph (A); and

7 (ii) ending on the earlier of the date
8 of receipt by the rental company of a noti-
9 fication ordered by the Secretary of Trans-
10 portation under subsection (b)(2)(A) of
11 section 30118 of title 49, United States
12 Code, and the date on which a manufac-
13 turer gives notice to owners, purchasers,
14 and dealers pursuant to subsection (c) of
15 such section that such covered vehicles
16 contain a defect related to motor vehicle
17 safety or do not comply with an applicable
18 motor vehicle safety standard.

19 (2) ELEMENTS.—The report required by para-
20 graph (1) shall include the following:

21 (A) A description and analysis of the fre-
22 quency of sales of covered vehicles described in
23 such paragraph.

24 (B) A discussion of the effects of such
25 sales on consumers.

1 (C) The recommendations of the Adminis-
2 trator, if any, on legislative and administrative
3 action that should be taken to address such
4 sales or mitigate such effects.

5 (b) FOLLOW-UP REPORT.—

6 (1) IN GENERAL.—Not later than 1 year after
7 the date on which the Administrator submits the re-
8 port required by subsection (a)(1), the Adminis-
9 trator shall submit to Congress a report on the sales
10 of covered vehicles as described in such subsection
11 during the period beginning on the date on which
12 the Administrator submits the report required by
13 such subsection and ending on the date on which the
14 report is submitted under this paragraph.

15 (2) ELEMENTS.—The report required by para-
16 graph (1) shall include the following:

17 (A) A description, analysis, discussion, and
18 recommendations as described in subsection
19 (a)(2) but with respect to the period described
20 in paragraph (1) of this subsection.

21 (B) An identification and analysis of dif-
22 ferences between the findings of the Adminis-
23 trator with respect to the report required by
24 subsection (a)(1) and the findings of the Ad-

1 administrator with respect to subparagraph (A) of
2 this paragraph.

3 (C) A discussion of the effects of the provi-
4 sions of this Act on the sales of covered vehicles
5 as described in subsection (a)(1).

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