TITLE 49, UNITED STATES CODE,

SUBTITLE VI. MOTOR VEHICLE AND DRIVER PROGRAMS

# PART C. INFORMATION, STANDARDS, AND REQUIREMENTS

## CHAPTERS 321, 323, 325, 327, 329, AND 331

**ADMINISTERED BY THE**

**NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION**

U.S. Department of Transportation
**National Highway Traffic Safety Administration**
**Office of the Chief Counsel**

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**PART C. INFORMATION, STANDARDS, AND REQUIREMENTS**

**CHAPTER 321. GENERAL**

Sec.
32101. Definitions.
32102. Authorization of appropriations.

**§ 32101. Definitions**

In this part (except chapter 329 and except as provided in section 33101)--

**(1)** "bumper standard" means a minimum performance standard that substantially reduces--

(A) the damage to the front or rear end of a passenger motor vehicle from a low-speed collision (including a collision with a fixed barrier) or from towing the vehicle; or

(B) the cost of repairing the damage.

**(2)** "insurer" means a person in the business of issuing, or reinsuring any part of, a passenger motor vehicle insurance policy.

**(3)** "interstate commerce" means commerce between a place in a State and--

(A) a place in another State; or

(B) another place in the same State through another State.

**(4)** "make", when describing a passenger motor vehicle, means the trade name of the manufacturer of the vehicle.

**(5)** "manufacturer" means a person--

(A) manufacturing or assembling passenger motor vehicles or passenger motor vehicle equipment; or

(B) importing motor vehicles or motor vehicle equipment for resale.

**(6)** "model", when describing a passenger motor vehicle, means a category of passenger motor vehicles based on the size, style, and type of a make of vehicle.

(7) "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

(8) "motor vehicle accident" means an accident resulting from the maintenance or operation of a passenger motor vehicle or passenger motor vehicle equipment.

**(9)** "multipurpose passenger vehicle" means a passenger motor vehicle constructed on a truck chassis or with special features for occasional off-road operation.

**(10)** "passenger motor vehicle" means a motor vehicle with motive power designed to carry not more than 12 individuals, but does not include--

(A) a motorcycle; or

(B) a truck not designed primarily to carry its operator or passengers.

**(11)** "passenger motor vehicle equipment" means--

(A) a system, part, or component of a passenger motor vehicle as originally made;

(B) a similar part or component made or sold for replacement or improvement of a system, part, or component, or as an accessory or addition to a passenger motor vehicle; or

**(C)** a device made or sold for use in towing a passenger motor vehicle.

(12) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(13) "United States district court" means a district court of the United States, a United States court for Guam, the Virgin Islands, and American Samoa, and the district court for the Northern Mariana Islands.

**§ 32102. Authorization of appropriations**

There is authorized to be appropriated to the Secretary $9,562,500 for the National Highway Traffic Safety Administration to carry out this part in each fiscal year beginning in fiscal year 1999 and ending in fiscal year 2001.

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SUBTITLE VI. MOTOR VEHICLE AND DRIVER PROGRAMS

**PART C. INFORMATION, STANDARDS, AND REQUIREMENTS**

**CHAPTER 323. CONSUMER INFORMATION**

Sec.
32301. Definitions.
32302. Passenger motor vehicle information.
32303. Insurance information.
32304. Passenger motor vehicle country of origin labeling.
323 04A. Consumer tire information.
32305. Information and assistance for other departments, agencies, and instrumentalities.
32306. Personnel.
32307. Investigative powers.
32308. General prohibitions, civil penalty, and enforcement.
32309. Civil penalty for labeling violations.

**§ 32301. Definitions**

In this chapter--

(1) "crashworthiness" means the protection a passenger motor vehicle gives its passengers against personal injury or death from a motor vehicle accident.

(2) "damage susceptibility" means the susceptibility of a passenger motor vehicle to damage in a motor vehicle accident.

**§ 32302. Passenger motor vehicle information**

**(a) Information program.**--The Secretary of Transportation shall maintain a program for developing the following information on passenger motor vehicles:

(1) damage susceptibility.

(2) crashworthiness.

(3) the degree of difficulty of diagnosis and repair of damage to, or failure of, mechanical and electrical systems.

(4) vehicle operating costs dependent on the characteristics referred to in clauses (1)-(3) of this subsection, including insurance information obtained under section 32303 of this title.

**(b) Motor vehicle information.**--To assist a consumer in buying a passenger motor vehicle, the Secretary shall provide to the public information developed under subsection (a) of this section. The information shall be in a simple and understandable form that allows comparison of the characteristics referred to in subsection (a)(1)-(3) of this section among the makes and models of passenger motor vehicles. The Secretary may require passenger

motor vehicle dealers to distribute the information to prospective buyers.

**(c) Insurance cost information.**--The Secretary shall prescribe regulations that require passenger motor vehicle dealers to distribute to prospective buyers information the Secretary develops and provides to the dealers that compares insurance costs for different makes and models of passenger motor vehicles based on damage susceptibility and crashworthiness.

**§ 32303. Insurance information**

**(a) General reports and information requirements.--(1)** In carrying out this chapter, the Secretary of Transportation may require an insurer, or a designated agent of the insurer, to make reports and provide the Secretary with information. The reports and information may include accident claim information by make, model, and model year of passenger motor vehicle about the kind and extent of--

(A) physical damage and repair costs; and

(B) personal injury.

**(2)** In deciding which reports and information are to be provided under this subsection, the Secretary shall--

(A) consider the cost of preparing and providing the reports and information;

(B) consider the extent to which the reports and information will contribute to carrying out this chapter; and

**(C)** consult with State authorities and public and private agencies the Secretary considers appropriate.

**(3)** To the extent possible, the Secretary shall obtain reports and information under this subsection on a voluntary basis.

**(b) Requested information on crashworthiness, damage susceptibility, and repair and personal injury cost.--**When requested by the Secretary, an insurer shall give the Secretary information--

(1) about the extent to which the insurance premiums charged by the insurer are affected by damage susceptibility, crashworthiness, and the cost of repair and personal injury, for each make and model of passenger motor vehicle; and

(2) available to the insurer about the effect of damage susceptibility, crashworthiness, and the cost of repair and personal injury for each make and model of passenger motor vehicle on the risk incurred by the insurer in insuring that make and model.

**(c) Disclosure.**--In distributing information received under this section, the Secretary may disclose identifying information about a person that may be an insured, a claimant, a passenger, an owner, a witness, or an individual involved in a motor vehicle accident, only with the consent of the person.

**§ 32304. Passenger motor vehicle country of origin labeling**

**(a) Definitions.**--In this section--

**(1)** "allied supplier" means a supplier of passenger motor vehicle equipment that is wholly owned by the manufacturer, or if a joint venture vehicle assembly arrangement, a supplier that is wholly owned by one

member of the joint venture arrangement.

(2)(A) “carline”--

(i) means a name given a group of passenger motor vehicles that has a degree of commonality in construction such as body and chassis;

(ii) does not consider a level of decor or opulence; and

**(iii)** except for light duty trucks, is not generally distinguished by characteristics such as roof line, number of doors, seats, or windows; and

**(B)** light duty trucks are different carlines than passenger motor vehicles.

**(3)** “country of origin”, when referring to the origin of an engine or transmission, means the country from which the largest share of the dollar value added to an engine or transmission has originated--

(A) with the United States and Canada treated as separate countries; and

(B) the estimate of the percentage of the dollar value shall be based on the purchase price of direct materials, as received at individual engine or transmission plants, of engines of the same displacement and transmissions of the same transmission type, plus the assembly and labor costs incurred for the final assembly of such engines and transmissions.

**(4)** “dealer” means a person residing or located in the United States, including the District of Columbia or a territory or possession of the United States, and engaged in selling or distributing new passenger motor vehicles to the ultimate purchaser.

(5) “final assembly place” means the plant, factory, or other place at which a new passenger motor vehicle is produced or assembled by a manufacturer, and from which the vehicle is delivered to a dealer or importer with all component parts necessary for the mechanical operation of the vehicle included with the vehicle, whether or not the component parts are permanently installed in or on the vehicle. Such term does not include facilities for engine and transmission fabrication and assembly and the facilities for fabrication of motor vehicle equipment component parts which are produced at the same final assembly place using forming processes such as stamping, machining, or molding processes.

(6) “foreign content” means passenger motor vehicle equipment that is not of United States/Canadian origin.

**(7)** “manufacturer” means a person--

(A) engaged in manufacturing or assembling new passenger motor vehicles;

(B) importing new passenger motor vehicles for resale; or

**(C)** acting for and under the control of such a manufacturer, assembler, or importer in connection with the distribution of new passenger motor vehicles.

**(8)** “new passenger motor vehicle” means a passenger motor vehicle for which a manufacturer, distributor, or dealer has never transferred the equitable or legal title to the vehicle to an ultimate purchaser.

**(9)** “of United States/Canadian origin”, when referring to passenger motor vehicle equipment, means--

**(A)** for an outside supplier--

(i) the full purchase price of passenger motor vehicle equipment whose purchase price contains at least 70 percent value added in the United States and Canada; or

(ii) that portion of the purchase price of passenger motor vehicle equipment containing less than 70 percent value added in the United States and Canada that is attributable to the percent value added in the United States and Canada when such percent is expressed to the nearest 5 percent; and

**(B)** for an allied supplier, that part of the individual passenger motor vehicle equipment whose purchase price the manufacturer determines remains after subtracting the total of the purchase prices of all material of foreign content purchased from outside suppliers, with the determination of the United States/Canadian origin or of the foreign content from outside suppliers being consistent with subclause (A) of this clause.

**(10)** “outside supplier” means a supplier of passenger motor vehicle equipment to a manufacturer's allied supplier, or a person other than an allied supplier, who ships directly to the manufacturer's final assembly place.

(11) “passenger motor vehicle” has the same meaning given that term in section 32101(10) of this title, except that it includes any multi-purpose vehicle or light duty truck when that vehicle or truck is rated at not more than 8,500 pounds gross vehicle weight.

(12) “passenger motor vehicle equipment”--

(A) means a system, subassembly, or component received at the final vehicle assembly place for installation on, or attachment to, a passenger motor vehicle at the time of its first shipment by the manufacturer to a dealer for sale to an ultimate purchaser; but

(B) does not include minor parts (including nuts, bolts, clips, screws, pins, braces, and other attachment hardware) and other similar items the Secretary of Transportation may prescribe by regulation after consulting with manufacturers and labor.

**(13)** “percentage (by value)”, when referring to passenger motor vehicle equipment of United States/Canadian origin, means the percentage remaining after subtracting the percentage (by value) of passenger motor vehicle equipment that is not of United States/Canadian origin that will be installed or included on those vehicles produced in a carline, from 100 percent--

(A) with value being expressed in terms of the purchase price; and

(B) for outside suppliers and allied suppliers, the value used is the purchase price of the equipment paid at the final assembly place.

**(14)** “State” means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

**(15)** “value added in the United States and Canada” means a percentage determined by subtracting the total purchase price of foreign content from the total purchase price, and dividing the remainder by the total purchase price, excluding costs incurred or profits made at the final assembly place and beyond (including advertising, assembly, labor, interest payments, and profits), with the following groupings being used:

(A) engines of same displacement produced at the same plant.

(B) transmissions of the same type produced at the same plant.

**(b) Manufacturer requirement.--(1)** Each manufacturer of a new passenger motor vehicle manufactured after September 30, 1994, and distributed in commerce for sale in the United States, shall establish each year for each model year and cause to be attached in a prominent place on each of those vehicles, at least one label. The label shall contain the following information:

(A) the percentage (by value) of passenger motor vehicle equipment of United States/Canadian origin installed on vehicles in the carline to which that vehicle belongs, identified by the words "U.S./Canadian content".

(B) the final assembly place for that vehicle by city, State (where appropriate) and country.

(C) if at least 15 percent (by value) of equipment installed on passenger motor vehicles in a carline originated in any country other than the United States and Canada, the names of at least the 2 countries in which the greatest amount (by value) of that equipment originated and the percentage (by value) of the equipment originating in each country.

(D) the country of origin of the engine and the transmission for each vehicle.

(2) At the beginning of each model year, each manufacturer shall establish the percentages required for each carline to be indicated on the label under this subsection. Those percentages are applicable to that carline for the entire model year. A manufacturer may round those percentages to the nearest 5 percent.

(3) A manufacturer complying with the requirement of paragraph (1)(B) of this subsection satisfies the disclosure requirement of section 3(b) of the Automobile Information Disclosure Act (15 U.S.C. 1232(b)).

**(c) Vehicle content percentage by assembly plant.**--A manufacturer may display separately on the label required by subsection (b) the domestic content of a vehicle based on the assembly plant. Such display shall occur after the matter required to be in the label by subsection (b)(1)(A).

**(d) Value added determination.**--If a manufacturer or allied supplier requests information in a timely manner from one or more of its outside suppliers concerning the United States/Canadian content of particular equipment, but does not receive that information despite a good faith effort to obtain it, the manufacturer or allied supplier may make its own good faith value added determinations, subject to the following:

(1) The manufacturer or allied supplier shall make the same value added determinations as would be made by the outside supplier, that is, whether 70 percent or more of the value of equipment is added in the United States and/or Canada.

(2) The manufacturer or allied supplier shall consider the amount of value added and the location in which the value was added for all of the stages that the outside supplier would be required to consider.

(3) The manufacturer or allied supplier may determine that the value added in the United States and/or Canada is 70 percent or more only if it has a good faith basis to make that determination.

(4) A manufacturer and its allied suppliers may, on a combined basis, make value added determinations for no more than 10 percent, by value, of a carline's total parts content from outside suppliers.

(5) Value added determinations made by a manufacturer or allied supplier under this paragraph shall have the same effect as if they were made by the outside supplier.

(6) This provision does not affect the obligation of outside suppliers to provide the requested information.

**(e) Small parts.**--The country of origin of nuts, bolts, clips, screws, pins, braces, gasoline, oil, blackout, phosphate rinse, windshield washer fluid, fasteners, tire assembly fluid, rivets, adhesives, and grommets, of any system, subassembly, or component installed in a vehicle shall be considered to be the country in which such parts were included in the final assembly of such vehicle.

**(f) Dealer requirement.**--Each dealer engaged in the sale or distribution of a new passenger motor vehicle manufactured after September 30, 1994, shall cause to be maintained on that vehicle the label required to be attached to that vehicle under subsection (b) of this section.

**(g) Form and content of label.**--The Secretary of Transportation shall prescribe by regulation the form and content of the label required under subsection (b) of this section and the manner and location in which the label is attached. The Secretary shall permit a manufacturer to comply with this section by allowing the manufacturer to disclose the information required under subsection (b)(1) on the label required by section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232), on the label required by section 32908 of this title, or on a separate label that is readily visible. A manufacturer may add to the label required under subsection (b) a line stating the country in which vehicle assembly was completed.

**(h) Regulations.**--In consultation with the Secretaries of Commerce and the Treasury, the Secretary of Transportation shall prescribe regulations necessary to carry out this section, including regulations establishing a procedure to verify the label information required under subsection (b)(1) of this section. Those regulations shall provide the ultimate purchaser of a new passenger motor vehicle with the best and most understandable information possible about the foreign content and United States/Canadian origin of the equipment of the vehicles without imposing costly and unnecessary burdens on the manufacturers. The Secretary of Transportation shall prescribe the regulations promptly to provide adequate lead time for each manufacturer to comply with this section. The regulations shall include provisions applicable to outside suppliers and allied suppliers to require those suppliers to certify whether passenger motor vehicle equipment provided by those suppliers is of United States origin, of United States/Canadian origin, or of foreign content and to provide other information the Secretary of Transportation decides is necessary to allow each manufacturer to comply reasonably with this section and to rely on that certification and information.

**(i) Preemption.--(1)** When a label content requirement prescribed under this section is in effect, a State or a political subdivision of a State may not adopt or enforce a law or regulation related to the content of vehicles covered by a requirement under this section.

**(2)** A State or a political subdivision of a State may prescribe requirements related to the content of passenger motor vehicles obtained for its own use.

**§ 32304A. Consumer tire information**

**(a) Rulemaking.--**

**(1) In general.**--Not later than 24 months after the date of enactment of the Ten-in-Ten Fuel Economy Act, the Secretary of Transportation shall, after notice and opportunity for comment, promulgate rules establishing a national tire fuel efficiency consumer information program for replacement tires designed for use on motor vehicles to educate consumers about the effect of tires on automobile fuel efficiency, safety, and durability.

**(2) Items included in rule.**--The rulemaking shall include--

(A) a national tire fuel efficiency rating system for motor vehicle replacement tires to assist consumers in making more educated tire purchasing decisions;

(B) requirements for providing information to consumers, including information at the point of sale and other potential information dissemination methods, including the Internet;

(C) specifications for test methods for manufacturers to use in assessing and rating tires to avoid variation among test equipment and manufacturers; and

(D) a national tire maintenance consumer education program including, information on tire inflation pressure, alignment, rotation, and tread wear to maximize fuel efficiency, safety, and durability of replacement tires.

**(3) Applicability.**--This section shall apply only to replacement tires covered under section 575.104(c) of title 49, Code of Federal Regulations, in effect on the date of the enactment of the Ten-in-Ten Fuel Economy Act.

**(b) Consultation.**--The Secretary shall consult with the Secretary of Energy and the Administrator of the Environmental Protection Agency on the means of conveying tire fuel efficiency consumer information.

**(c) Report to Congress.**--The Secretary shall conduct periodic assessments of the rules promulgated under this section to determine the utility of such rules to consumers, the level of cooperation by industry, and the contribution to national goals pertaining to energy consumption. The Secretary shall transmit periodic reports detailing the findings of such assessments to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce.

**(d) Tire marking.**--The Secretary shall not require permanent labeling of any kind on a tire for the purpose of tire fuel efficiency information.

**(e) Application with State and local laws and regulations.**--Nothing in this section prohibits a State or political subdivision thereof from enforcing a law or regulation on tire fuel efficiency consumer information that was in effect on January 1, 2006. After a requirement promulgated under this section is in effect, a State or political subdivision thereof may adopt or enforce a law or regulation on tire fuel efficiency consumer information enacted or promulgated after January 1, 2006, if the requirements of that law or regulation are identical to the requirement promulgated under this section. Nothing in this section shall be construed to preempt a State or political subdivision thereof from regulating the fuel efficiency of tires (including establishing testing methods for determining compliance with such standards) not otherwise preempted under this chapter.

**§ 32305. Information and assistance from other departments, agencies, and instrumentalities**

**(a) Authority to request.**--The Secretary of Transportation may request information necessary to carry out this chapter from a department, agency, or instrumentality of the United States Government. The head of the department, agency, or instrumentality shall provide the information.

**(b) Detailing personnel.**--The head of a department, agency, or instrumentality may detail, on a reimbursable basis, personnel to assist the Secretary in carrying out this chapter.

**§ 32306. Personnel**

**(a) General authority.**--In carrying out this chapter, the Secretary of Transportation may--

(1) appoint and fix the pay of employees without regard to the provisions of title 5 governing appointment in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5; and

(2) make contracts with persons for research and preparation of reports.

**(b) Status of advisory committee members.**--A member of an advisory committee appointed under section 325 of this title to carry out this chapter is a special United States Government employee under chapter 11 of title 18.

**§ 32307. Investigative powers**

**(a) General authority.**--In carrying out this chapter, the Secretary of Transportation may--

(1) inspect and copy records of any person at reasonable times;

(2) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

**(3)** conduct hearings, administer oaths, take testimony, and require (by subpena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

**(b) Witness fees and mileage.**--A witness summoned under subsection (a) of this section is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

**(c) Civil actions to enforce.**--A civil action to enforce a subpena or order of the Secretary under subsection (a) of this section may be brought in the United States district court for the judicial district in which the proceeding by the Secretary is conducted. The court may punish a failure to obey an order of the court to comply with the subpena or order of the Secretary as a contempt of court.

**(d) Confidentiality of information.**--Information obtained by the Secretary under this section related to a confidential matter referred to in section 1905 of title 18 may be disclosed only to another officer or employee of the United States Government for use in carrying out this chapter. This subsection does not authorize information to be withheld from a committee of Congress authorized to have the information.

**§ 32308. General prohibitions, civil penalty, and enforcement**

**(a) Prohibitions.**--A person may not--

(1) fail to provide the Secretary of Transportation with information requested by the Secretary in carrying out this chapter; or

(2) fail to comply with applicable regulations prescribed by the Secretary in carrying out this chapter.

**(b) Civil penalty.--(1)** A person that violates subsection (a) of this section is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. Each failure to provide information or comply with a regulation in violation of subsection (a) is a separate violation. The maximum penalty under this subsection for a related series of violations is $400,000.

(2) The Secretary may compromise the amount of a civil penalty imposed under this section.

(3) In determining the amount of a penalty or compromise, the appropriateness of the penalty or compromise to the size of the business of the person charged and the gravity of the violation shall be considered.

**(4)** The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

**(c) Section 32304A.**--Any person who fails to comply with the national tire fuel efficiency information program under section 323 04A is liable to the United States Government for a civil penalty of not more than $50,000 for each violation.

**(d) Civil actions to enforce.--(1)** The Attorney General may bring a civil action in a United States district court to enjoin a violation of subsection (a) of this section.

**(2)** When practicable, the Secretary shall--

(A) notify a person against whom an action under this subsection is planned;

(B) give the person an opportunity to present that person's views; and

**(C)** give the person a reasonable opportunity to comply.

**(3)** The failure of the Secretary to comply with paragraph (2) of this subsection does not prevent a court from granting appropriate relief.

**(e) Venue and service.**--A civil action under this section may be brought in the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpena for a witness in the action may be served in any judicial district.

**§ 32309. Civil penalty for labeling violations**

**(a) Definitions.**--The definitions in section 32304 of this title apply to this section.

**(b) Penalties.**--A manufacturer of a passenger motor vehicle distributed in commerce for sale in the United States that willfully fails to attach the label required under section 32304 of this title to a new passenger motor vehicle that the manufacturer manufactures or imports, or a dealer that fails to maintain that label as required under section 32304, is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. Each failure to attach or maintain that label for each vehicle is a separate violation.

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**PART C. INFORMATION, STANDARDS, AND REQUIREMENTS**

**CHAPTER 325. BUMPER STANDARDS**

Sec.
32501. Purpose.
32502. Bumper standards.
32503. Judicial review of bumper standards.
32504. Certificates of compliance.
32505. Information and compliance requirements.
32506. Prohibited acts.
32507. Penalties and enforcement.
32508. Civil actions by owners of passenger motor vehicles.
32509. Information and assistance from other departments, agencies, and instrumentalities.
32510. Annual report.
32511. Relationship to other motor vehicle standards.

## § 32501. Purpose

The purpose of this chapter is to reduce economic loss resulting from damage to passenger motor vehicles involved in motor vehicle accidents by providing for the maintenance and enforcement of bumper standards.

## § 32502. Bumper standards

**(a) General requirements and nonapplication.**--The Secretary of Transportation shall prescribe by regulation bumper standards for passenger motor vehicles and may prescribe by regulation bumper standards for passenger motor vehicle equipment manufactured in, or imported into, the United States. A standard does not apply to a passenger motor vehicle or passenger motor vehicle equipment--

(1) intended only for export;

(2) labeled for export on the vehicle or equipment and the outside of any container of the vehicle or equipment; and

**(3)** exported.

**(b) Limitations.**--A standard under this section--

(1) may not conflict with a motor vehicle safety standard prescribed under chapter 301 of this title;

(2) may not specify a dollar amount for the cost of repairing damage to a passenger motor vehicle; and

**(3)** to the greatest practicable extent, may not preclude the attachment of a detachable hitch.

**(c) Exemptions.**--For good cause, the Secretary may exempt from all or any part of a standard--

**(1)** a multipurpose passenger vehicle;

(2) a make, model, or class of a passenger motor vehicle manufactured for a special use, if the standard would interfere unreasonably with the special use of the vehicle; or

(3) a passenger motor vehicle for which an application for an exemption under section 30013(b) of this title has been filed in accordance with the requirements of that section.

**(d) Cost reduction and considerations.**--When prescribing a standard under this section, the Secretary shall design the standard to obtain the maximum feasible reduction of costs to the public, considering--

(1) the costs and benefits of carrying out the standard;

(2) the effect of the standard on insurance costs and legal fees and costs;

(3) savings in consumer time and inconvenience; and

(4) health and safety, including emission standards.

**(e) Procedures.**--Section 553 of title 5 applies to a standard prescribed under this section. However, the Secretary shall give an interested person an opportunity to make oral and written presentations of information, views, and arguments. A transcript of each oral presentation shall be kept. Under conditions prescribed by the Secretary, the Secretary may conduct a hearing to resolve an issue of fact material to a standard.

**(f)Effective date.**--The Secretary shall prescribe an effective date for a standard under this section. That date may not be earlier than the date the standard is prescribed nor later than 18 months after the date the standard is prescribed. However, the Secretary may prescribe a later date when the Secretary submits to Congress and publishes the reasons for the later date. A standard only applies to a passenger motor vehicle or passenger motor vehicle equipment manufactured on or after the effective date.

**(g) Research.**--The Secretary shall conduct research necessary to carry out this chapter.

**§ 32503. Judicial review of bumper standards**

**(a) Filing and venue.**--A person that may be adversely affected by a standard prescribed under section 32502 of this title may apply for review of the standard by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 59 days after the standard is prescribed.

**(b) Notifying Secretary.**--The clerk of the court shall send immediately a copy of the petition to the Secretary of Transportation. The Secretary shall file with the court a record of the proceeding in which the standard was prescribed.

**(c) Additional proceedings.--(1)** On request of the petitioner, the court may order the Secretary to receive additional evidence and evidence in rebuttal if the court is satisfied the additional evidence is material and there were reasonable grounds for not presenting the evidence in the proceeding before the Secretary.

**(2)** The Secretary may modify findings of fact or make new findings because of the additional evidence presented. The Secretary shall file a modified or new finding, a recommendation to modify or set aside a standard, and the additional evidence with the court.

**(d) Supreme Court review and additional remedies.**--A judgment of a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28. A remedy under this section is in addition to any other remedies provided by law.

**§ 32504. Certificates of compliance**

Under regulations prescribed by the Secretary of Transportation, a manufacturer or distributor of a passenger motor vehicle or passenger motor vehicle equipment subject to a standard prescribed under section 32502 of this title shall give the distributor or dealer at the time of delivery a certificate that the vehicle or equipment complies with the standard.

**§ 32505. Information and compliance requirements**

**(a) General authority.--(1)** To enable the Secretary of Transportation to decide whether a manufacturer of passenger motor vehicles or passenger motor vehicle equipment is complying with this chapter and standards prescribed under this chapter, the Secretary may require the manufacturer to--

(A) keep records;

(B) make reports;

(C) provide items and information, including vehicles and equipment for testing at a negotiated price not more than the manufacturer's cost; and

(D) allow an officer or employee designated by the Secretary to inspect vehicles and relevant records of the manufacturer.

**(2)** To enforce this chapter, an officer or employee designated by the Secretary, on presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, may inspect a facility in which passenger motor vehicles or passenger motor vehicle equipment is manufactured, held for introduction in interstate commerce, or held for sale after introduction in interstate commerce. An inspection shall be conducted at a reasonable time, in a reasonable way, and with reasonable promptness.

**(b) Powers of Secretary and civil actions to enforce.--(1)** In carrying out this chapter, the Secretary may-

(A) inspect and copy records of any person at reasonable times;

(B) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

**(C)** conduct hearings, administer oaths, take testimony, and require (by subpena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

(2) A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(3) A civil action to enforce a subpena or order of the Secretary under this subsection may be brought in the United States district court for any judicial district in which the proceeding by the Secretary is conducted. The court may punish a failure to obey an order of the court to comply with the subpena or order of the Secretary as a contempt of court.

**(c) Confidentiality of information.--(1)** Information obtained by the Secretary under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only--

(A) to another officer or employee of the United States Government for use in carrying out this chapter; or

(B) in a proceeding under this chapter.

**(2)** This subsection does not authorize information to be withheld from a committee of Congress authorized

to have the information.

**(3)** Subject to paragraph (1) of this subsection, the Secretary, on request, shall make available to the public at cost information the Secretary submits or receives in carrying out this chapter.

**§ 32506. Prohibited acts**

**(a) General.**--Except as provided in this section, and section 32502 of this title a person may not--

(1) manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, a passenger motor vehicle or passenger motor vehicle equipment manufactured on or after the date an applicable standard under section 32502 of this title takes effect, unless it conforms to the standard;

(2) fail to comply with an applicable regulation prescribed by the Secretary of Transportation under this chapter;

(3) fail to keep records, refuse access to or copying of records, fail to make reports or provide items or information, or fail or refuse to allow entry or inspection, as required by this chapter or a regulation prescribed under this chapter; or

(4) fail to provide the certificate required by section 32504 of this title, or provide a certificate that the person knows, or in the exercise of reasonable care has reason to know, is false or misleading in a material respect.

**(b) Nonapplication.**--Subsection **(a)(1)** of this section does not apply to--

(1) the sale, offer for sale, or introduction or delivery for introduction in interstate commerce of a passenger motor vehicle or passenger motor vehicle equipment after the first purchase of the vehicle or equipment in good faith other than for resale (but this clause does not prohibit a standard from requiring that a vehicle or equipment be manufactured to comply with the standard over a specified period of operation or use); or

(2) a person--

(A) establishing that the person had no reason to know, by exercising reasonable care, that the vehicle or equipment does not comply with the standard; or

(B) holding, without knowing about a noncompliance and before that first purchase, a certificate issued under section 32504 of this title stating that the vehicle or equipment complies with the standard.

**(c) Importing noncomplying vehicles and equipment.--(1)** The Secretaries of Transportation and the Treasury may prescribe joint regulations authorizing a passenger motor vehicle or passenger motor vehicle equipment not complying with a standard prescribed under section 32502 of this title to be imported into the United States subject to conditions (including providing a bond) the Secretaries consider appropriate to ensure that the vehicle or equipment will--

(A) comply, after importation, with the standards prescribed under section 32502 of this title;

(B) be exported; or

**(C)** be abandoned to the United States Government.

**(2)** The Secretaries may prescribe joint regulations that allow a passenger motor vehicle or passenger motor vehicle equipment to be imported into the United States after the first purchase in good faith other than for

resale.

**(d) Liability under other law.**--Compliance with a standard under this chapter does not exempt a person from liability provided by law.

**§ 32507. Penalties and enforcement**

**(a) Civil penalty.--(1)** A person that violates section 32506(a) of this title is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. A separate violation occurs for each passenger motor vehicle or item of passenger motor vehicle equipment involved in a violation of section 32506(a)(1) or (4) of this title--

(A) that does not comply with a standard prescribed under section 32502 of this title; or

(B) for which a certificate is not provided, or for which a false or misleading certificate is provided, under section 32504 of this title.

(2) The maximum civil penalty under this subsection for a related series of violations is $800,000.

(3) The Secretary of Transportation imposes a civil penalty under this subsection. The Attorney General or the Secretary, with the concurrence of the Attorney General, shall bring a civil action in a United States district court to collect the penalty.

**(b) Criminal penalty.**--A person knowingly and willfully violating section 32506(a)(1) of this title after receiving a notice of noncompliance from the Secretary shall be fined under title 18, imprisoned for not more than one year, or both. If the person is a corporation, the penalties of this subsection also apply to a director, officer, or individual agent of the corporation who, with knowledge of the Secretary's notice, knowingly and willfully authorizes, orders, or performs an act that is any part of the violation.

**(c) Civil actions to enforce.--(1)** The Secretary or the Attorney General may bring a civil action in a United States district court to enjoin a violation of this chapter or the sale, offer for sale, introduction or delivery for introduction in interstate commerce, or importation into the United States, of a passenger motor vehicle or passenger motor vehicle equipment that is found, before the first purchase in good faith other than for resale, not to comply with a standard prescribed under section 32502 of this title.

**(2)** When practicable, the Secretary shall--

(A) notify a person against whom an action under this subsection is planned;

(B) give the person an opportunity to present that person's views; and

**(C)** except for a knowing and willful violation, give the person a reasonable opportunity to comply.

**(3)** The failure of the Secretary to comply with paragraph (2) of this subsection does not prevent a court from granting appropriate relief.

**(d) Jury trial demand.**--In a trial for criminal contempt for violating an injunction or restraining order issued under subsection (c) of this section, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

**(e) Venue.**--A civil action under subsection (a) or (c) of this section may be brought in the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpena for a witness in the action may be served in any judicial district.

**§ 32508. Civil actions by owners of passenger motor vehicles**

When an owner of a passenger motor vehicle sustains damages as a result of a motor vehicle accident because the vehicle did not comply with a standard prescribed under section 32502 of this title, the owner may bring a civil action against the manufacturer to recover the damages. The action may be brought in the United States District Court for the District of Columbia or in the United States district court for the judicial district in which the owner resides. The action must be brought not later than 3 years after the date of the accident. The court shall award costs and a reasonable attorney's fee to the owner when a judgment is entered for the owner.

**§ 32509. Information and assistance from other departments, agencies, and instrumentalities**

**(a) General authority.**--The Secretary of Transportation may request information necessary to carry out this chapter from a department, agency, or instrumentality of the United States Government. The head of the department, agency, or instrumentality shall provide the information.

**(b) Detailing personnel.**--The head of a department, agency, or instrumentality may detail, on a reimbursable basis, personnel to assist the Secretary in carrying out this chapter.

**[§ 32510. Repealed. Pub.L. 105-362, Title XV, § 1501(e)(1), Nov. 10, 1998] §**

**32511. Relationship to other motor vehicle standards**

**(a) Preemption.**--Except as provided in this section, a State or a political subdivision of a State may prescribe or enforce a bumper standard for a passenger motor vehicle or passenger motor vehicle equipment only if the standard is identical to a standard prescribed under section 32502 of this title.

**(b) Enforcement.**--This chapter and chapter 301 of this title do not affect the authority of a State to enforce a bumper standard about an aspect of performance of a passenger motor vehicle or passenger motor vehicle equipment not covered by a standard prescribed under section 32502 of this title if the State bumper standard--

(1) does not conflict with a standard prescribed under chapter 301 of this title; and

(2) was in effect or prescribed by the State on October 20, 1972.

**(c) Additional and higher standards of performance.**--The United States Government, a State, or a political subdivision of a State may prescribe a bumper standard for a passenger motor vehicle or passenger motor vehicle equipment obtained for its own use that imposes additional or higher standards of performance than a standard prescribed under section 32502 of this title.

TITLE 49, UNITED STATES CODE,

SUBTITLE VI. MOTOR VEHICLE AND DRIVER PROGRAMS

**PART C. INFORMATION, STANDARDS, AND REQUIREMENTS**

**CHAPTER 327. ODOMETERS**

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## § 32701. Findings and purposes

**(a) Findings.**--Congress finds that--

(1) buyers of motor vehicles rely heavily on the odometer reading as an index of the condition and value of a vehicle;

(2) buyers are entitled to rely on the odometer reading as an accurate indication of the mileage of the vehicle;

(3) an accurate indication of the mileage assists a buyer in deciding on the safety and reliability of the vehicle; and

(4) motor vehicles move in, or affect, interstate and foreign commerce.

**(b) Purposes.**--The purposes of this chapter are--

(1) to prohibit tampering with motor vehicle odometers; and

(2) to provide safeguards to protect purchasers in the sale of motor vehicles with altered or reset odometers.

## § 32702. Definitions

In this chapter--

(1) "auction company" means a person taking possession of a motor vehicle owned by another to sell at an auction.

(2) "dealer" means a person that sold at least 5 motor vehicles during the prior 12 months to buyers that in good faith bought the vehicles other than for resale.

(3) "distributor" means a person that sold at least 5 motor vehicles during the prior 12 months for resale.

(4) "leased motor vehicle" means a motor vehicle leased to a person for at least 4 months by a lessor that leased at least 5 vehicles during the prior 12 months.

(5) "odometer" means an instrument for measuring and recording the distance a motor vehicle is driven, but does not include an auxiliary instrument designed to be reset by the operator of the vehicle to record mileage of a trip.

(6) "repair" and "replace" mean to restore to a sound working condition by replacing any part of an odometer or by correcting any inoperative part of an odometer.

(7) "title" means the certificate of title or other document issued by the State indicating ownership.

(8) "transfer" means to change ownership by sale, gift, or any other means.

**§ 32703. Preventing tampering**

A person may not--

(1) advertise for sale, sell, use, install, or have installed, a device that makes an odometer of a motor vehicle register a mileage different from the mileage the vehicle was driven, as registered by the odometer within the designed tolerance of the manufacturer of the odometer;

(2) disconnect, reset, alter, or have disconnected, reset, or altered, an odometer of a motor vehicle intending to change the mileage registered by the odometer;

(3) with intent to defraud, operate a motor vehicle on a street, road, or highway if the person knows that the odometer of the vehicle is disconnected or not operating; or

**(4)** conspire to violate this section or section 32704 or 32705 of this title. **§**

**32704. Service, repair, and replacement**

**(a) Adjusting mileage.**--A person may service, repair, or replace an odometer of a motor vehicle if the mileage registered by the odometer remains the same as before the service, repair, or replacement. If the mileage cannot remain the same--

(1) the person shall adjust the odometer to read zero; and

(2) the owner of the vehicle or agent of the owner shall attach a written notice to the left door frame of the vehicle specifying the mileage before the service, repair, or replacement and the date of the service, repair, or replacement.

**(b) Removing or altering notice.**--A person may not, with intent to defraud, remove or alter a notice attached to a motor vehicle as required by this section.

**§ 32705. Disclosure requirements on transfer of motor vehicles**

**(a)(1) Disclosure requirements.**--Under regulations prescribed by the Secretary of Transportation that include the way in which information is disclosed and retained under this section, a person transferring ownership of a motor vehicle shall give the transferee the following written disclosure:

(A) Disclosure of the cumulative mileage registered on the odometer.

(B) Disclosure that the actual mileage is unknown, if the transferor knows that the odometer reading is

different from the number of miles the vehicle has actually traveled.

(2) A person transferring ownership of a motor vehicle may not violate a regulation prescribed under this section or give a false statement to the transferee in making the disclosure required by such a regulation.

(3) A person acquiring a motor vehicle for resale may not accept a written disclosure under this section unless it is complete.

(4)(A) This subsection shall apply to all transfers of motor vehicles (unless otherwise exempted by the Secretary by regulation), except in the case of transfers of new motor vehicles from a vehicle manufacturer jointly to a dealer and a person engaged in the business of renting or leasing vehicles for a period of 30 days or less.

**(B)** For purposes of subparagraph (A), the term "new motor vehicle" means any motor vehicle driven with no more than the limited use necessary in moving, transporting, or road testing such vehicle prior to delivery from the vehicle manufacturer to a dealer, but in no event shall the odometer reading of such vehicle exceed 300 miles.

**(5)** The Secretary may exempt such classes or categories of vehicles as the Secretary deems appropriate from these requirements. Until such time as the Secretary amends or modifies the regulations set forth in 49 CFR 580.6, such regulations shall have full force and effect.

**(b) Mileage statement requirement for licensing.--(1)** A motor vehicle the ownership of which is transferred may not be licensed for use in a State unless the transferee, in submitting an application to a State for the title on which the license will be issued, includes with the application the transferor's title and, if that title contains the space referred to in paragraph (3)(A)(iii) of this subsection, a statement, signed and dated by the transferor, of the mileage disclosure required under subsection (a) of this section. This paragraph does not apply to a transfer of ownership of a motor vehicle that has not been licensed before the transfer.

(2)(A) Under regulations prescribed by the Secretary, if the title to a motor vehicle issued to a transferor by a State is in the possession of a lienholder when the transferor transfers ownership of the vehicle, the transferor may use a written power of attorney (if allowed by State law) in making the mileage disclosure required under subsection (a) of this section. Regulations prescribed under this paragraph--

(i) shall prescribe the form of the power of attorney;

(ii) shall provide that the form be printed by means of a secure printing process (or other secure process);

(iii) shall provide that the State issue the form to the transferee;

(iv) shall provide that the person exercising the power of attorney retain a copy and submit the original to the State with a copy of the title showing the restatement of the mileage;

(v) may require that the State retain the power of attorney and the copy of the title for an appropriate period or that the State adopt alternative measures consistent with section 32701(b) of this title, after considering the costs to the State;

(vi) shall ensure that the mileage at the time of transfer be disclosed on the power of attorney document;

(vii) shall ensure that the mileage be restated exactly by the person exercising the power of attorney in the space referred to in paragraph (3)(A)(iii) of this subsection;

(viii) may not require that a motor vehicle be titled in the State in which the power of attorney was issued;

(ix) shall consider the need to facilitate normal commercial transactions in the sale or exchange of motor vehicles; and

(x) shall provide other conditions the Secretary considers appropriate.

**(B)** Section 32709(a) and (b) applies to a person granting or granted a power of attorney under this paragraph.

(3)(A) A motor vehicle the ownership of which is transferred may not be licensed for use in a State unless the title issued by the State to the transferee--

(i) is produced by means of a secure printing process (or other secure process);

(ii) indicates the mileage disclosure required to be made under subsection (a) of this section; and

**(iii)** contains a space for the transferee to disclose the mileage at the time of a future transfer and to sign and date the disclosure.

**(B)** Subparagraph (A) of this paragraph does not require a State to verify, or preclude a State from verifying, the mileage information contained in the title.

**(c) Leased motor vehicles.--(1)** For a leased motor vehicle, the regulations prescribed under subsection (a) of this section shall require written disclosure about mileage to be made by the lessee to the lessor when the lessor transfers ownership of that vehicle.

**(2)** Under those regulations, the lessor shall provide written notice to the lessee of--

(A) the lessee's mileage disclosure requirements under paragraph (1) of this subsection; and

(B) the penalties for failure to comply with those requirements.

**(3)** The lessor shall retain the disclosures made by a lessee under paragraph (1) of this subsection for at least 4 years following the date the lessor transfers the leased motor vehicle.

**(4)** If the lessor transfers ownership of a leased motor vehicle without obtaining possession of the vehicle, the lessor, in making the disclosure required by subsection (a) of this section, may indicate on the title the mileage disclosed by the lessee under paragraph (1) of this subsection unless the lessor has reason to believe that the disclosure by the lessee does not reflect the actual mileage of the vehicle.

**(d) State alternate vehicle mileage disclosure requirements.**--The requirements of subsections (b) and (c)(1) of this section on the disclosure of motor vehicle mileage when motor vehicles are transferred or leased apply in a State unless the State has in effect alternate motor vehicle mileage disclosure requirements approved by the Secretary. The Secretary shall approve alternate motor vehicle mileage disclosure requirements submitted by a State unless the Secretary decides that the requirements are not consistent with the purpose of the disclosure required by subsection (b) or (c), as the case may be.

**(e) Auction sales.**--If a motor vehicle is sold at an auction, the auction company conducting the auction shall maintain the following records for at least 4 years after the date of the sale:

(1) the name of the most recent owner of the motor vehicle (except the auction company) and the name of the buyer of the motor vehicle.

(2) the vehicle identification number required under chapter 301 or 331 of this title.

**(3)** the odometer reading on the date the auction company took possession of the motor vehicle.

**(f) Application and revision of State law.--(1)** Except as provided in paragraph (2) of this subsection, subsections (b)-(e) of this section apply to the transfer of a motor vehicle after April 28, 1989.

**(2)** If a State requests, the Secretary shall assist the State in revising its laws to comply with subsection (b) of this section. If a State requires time beyond April 28, 1989, to revise its laws to achieve compliance, the Secretary, on request of the State, may grant additional time that the Secretary considers reasonable by publishing a notice in the Federal Register. The notice shall include the reasons for granting the additional time. In granting additional time, the Secretary shall ensure that the State is making reasonable efforts to achieve compliance.

**§ 32706. Inspections, investigations, and records**

**(a) Authority to inspect and investigate.**--Subject to section 32707 of this title, the Secretary of Transportation may conduct an inspection or investigation necessary to carry out this chapter or a regulation prescribed or order issued under this chapter. The Secretary shall cooperate with State and local officials to the greatest extent possible in conducting an inspection or investigation. The Secretary may give the Attorney General information about a violation of this chapter or a regulation prescribed or order issued under this chapter.

**(b) Entry, inspection, and impoundment.--(1)** In carrying out subsection (a) of this section, an officer or employee designated by the Secretary, on display of proper credentials and written notice to the owner, operator, or agent in charge, may--

(A) enter and inspect commercial premises in which a motor vehicle or motor vehicle equipment is manufactured, held for shipment or sale, maintained, or repaired;

(B) enter and inspect noncommercial premises in which the Secretary reasonably believes there is a motor vehicle or motor vehicle equipment that is an object of a violation of this chapter;

(C) inspect that motor vehicle or motor vehicle equipment; and

(D) impound for not more than 72 hours for inspection a motor vehicle or motor vehicle equipment that the Secretary reasonably believes is an object of a violation of this chapter.

**(2)** An inspection or impoundment under this subsection shall be conducted at a reasonable time, in a reasonable way, and with reasonable promptness. The written notice may consist of a warrant issued under section 32707 of this title.

**(c) Reasonable compensation.**--When the Secretary impounds for inspection a motor vehicle (except a vehicle subject to subchapter I of chapter 135 of this title) or motor vehicle equipment under subsection (b)(1)(D) of this section, the Secretary shall pay reasonable compensation to the owner of the vehicle or equipment if the inspection or impoundment results in denial of use, or reduction in value, of the vehicle or equipment.

**(d) Records and information requirements.--(1)** To enable the Secretary to decide whether a dealer or distributor is complying with this chapter and regulations prescribed and orders issued under this chapter, the Secretary may require the dealer or distributor--

(A) to keep records;

(B) to provide information from those records if the Secretary states the purpose for requiring the information and identifies the information to the fullest extent practicable; and

**(C)** to allow an officer or employee designated by the Secretary to inspect relevant records of the dealer or distributor.

**(2)** This subsection and subsection (e)(1)(B) of this section do not authorize the Secretary to require a dealer or distributor to provide information on a regular periodic basis.

**(e) Administrative authority and civil actions to enforce.--(1)** In carrying out this chapter, the Secretary may- -

(A) inspect and copy records of any person at reasonable times;

(B) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

**(C)** conduct hearings, administer oaths, take testimony, and require (by subpena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

(2) A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(3) A civil action to enforce a subpena or order of the Secretary under this subsection may be brought in the United States district court for any judicial district in which the proceeding by the Secretary is conducted. The court may punish a failure to obey an order of the court to comply with the subpena or order of the Secretary as a contempt of court.

**(f) Prohibitions.**--A person may not fail to keep records, refuse access to or copying of records, fail to make reports or provide information, fail to allow entry or inspection, or fail to permit impoundment, as required under this section.

**§ 32707. Administrative warrants**

**(a) Definition.**--In this section, "probable cause" means a valid public interest in the effective enforcement of this chapter or a regulation prescribed under this chapter sufficient to justify the inspection or impoundment in the circumstances stated in an application for a warrant under this section.

**(b) Warrant requirement and issuance.--(1)** Except as provided in paragraph (4) of this subsection, an inspection or impoundment under section 32706 of this title may be carried out only after a warrant is obtained.

**(2)** A judge of a court of the United States or a State court of record or a United States magistrate may issue a warrant for an inspection or impoundment under section 32706 of this title within the territorial jurisdiction of the court or magistrate. The warrant must be based on an affidavit that--

(A) establishes probable cause to issue the warrant; and

(B) is sworn to before the judge or magistrate by an officer or employee who knows the facts alleged in the affidavit.

**(3)** The judge or magistrate shall issue the warrant when the judge or magistrate decides there is a reasonable basis for believing that probable cause exists to issue the warrant. The warrant must--

(A) identify the premises, property, or motor vehicle to be inspected and the items or type of property to be impounded;

(B) state the purpose of the inspection, the basis for issuing the warrant, and the name of the affiant;

**(C)** direct an individual authorized under section 32706 of this title to inspect the premises, property, or vehicle for the purpose stated in the warrant and, when appropriate, to impound the property specified in

the warrant;

(D) direct that the warrant be served during the hours specified in the warrant; and

(E) name the judge or magistrate with whom proof of service is to be filed.

**(4)** A warrant under this section is not required when--

(A) the owner, operator, or agent in charge of the premises consents;

(B) it is reasonable to believe that the mobility of the motor vehicle to be inspected makes it impractical to obtain a warrant;

(C) an application for a warrant cannot be made because of an emergency;

(D) records are to be inspected and copied under section 32706(e)(1)(A) of this title; or

**(E)** a warrant is not constitutionally required.

**(c) Service and impoundment of property.--(1)** A warrant issued under this section must be served and proof of service filed not later than 10 days after its issuance date. The judge or magistrate may allow additional time in the warrant if the Secretary of Transportation demonstrates a need for additional time. Proof of service must be filed promptly with a written inventory of the property impounded under the warrant. The inventory shall be made in the presence of the individual serving the warrant and the individual from whose possession or premises the property was impounded, or if that individual is not present, a credible individual except the individual making the inventory. The individual serving the warrant shall verify the inventory. On request, the judge or magistrate shall send a copy of the inventory to the individual from whose possession or premises the property was impounded and to the applicant for the warrant.

**(2)** When property is impounded under a warrant, the individual serving the warrant shall--

(A) give the person from whose possession or premises the property was impounded a copy of the warrant and a receipt for the property; or

(B) leave the copy and receipt at the place from which the property was impounded.

**(3)** The judge or magistrate shall file the warrant, proof of service, and all documents filed about the warrant with the clerk of the United States district court for the judicial district in which the inspection is made.

**§ 32708. Confidentiality of information**

**(a) General.**--Information obtained by the Secretary of Transportation under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only--

(1) to another officer or employee of the United States Government for use in carrying out this chapter; or

(2) in a proceeding under this chapter.

**(b) Withholding information from Congress.**--This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

**§ 32709. Penalties and enforcement**

**(a) Civil penalty.--(1)** A person that violates this chapter or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than $2,000 for each violation. A separate violation occurs for each motor vehicle or device involved in the violation. The maximum penalty under this subsection for a related series of violations is $100,000.

(2) The Secretary of Transportation shall impose a civil penalty under this subsection. The Attorney General shall bring a civil action to collect the penalty. Before referring a penalty claim to the Attorney General, the Secretary may compromise the amount of the penalty. Before compromising the amount of the penalty, the Secretary shall give the person charged with a violation an opportunity to establish that the violation did not occur.

(3) In determining the amount of a civil penalty under this subsection, the Secretary shall consider--

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

**(C)** other matters that justice requires.

**(b) Criminal penalty.**--A person that knowingly and willfully violates this chapter or a regulation prescribed or order issued under this chapter shall be fined under title 18, imprisoned for not more than 3 years, or both. If the person is a corporation, the penalties of this subsection also apply to a director, officer, or individual agent of a corporation who knowingly and willfully authorizes, orders, or performs an act in violation of this chapter or a regulation prescribed or order issued under this chapter without regard to penalties imposed on the corporation.

**(c) Civil actions by Attorney General.**--The Attorney General may bring a civil action to enjoin a violation of this chapter or a regulation prescribed or order issued under this chapter. The action may be brought in the United States district court for the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpena for a witness in the action may be served in any judicial district.

**(d) Civil actions by States.--(1)** When a person violates this chapter or a regulation prescribed or order issued under this chapter, the chief law enforcement officer of the State in which the violation occurs may bring a civil action--

(A) to enjoin the violation; or

(B) to recover amounts for which the person is liable under section 32710 of this title for each person on whose behalf the action is brought.

**(2)** An action under this subsection may be brought in an appropriate United States district court or in a State court of competent jurisdiction. The action must be brought not later than 2 years after the claim accrues.

**§ 32710. Civil actions by private persons**

**(a) Violation and amount of damages.**--A person that violates this chapter or a regulation prescribed or order issued under this chapter, with intent to defraud, is liable for 3 times the actual damages or $1,500, whichever is greater.

**(b) Civil actions.**--A person may bring a civil action to enforce a claim under this section in an appropriate United States district court or in another court of competent jurisdiction. The action must be brought not later than 2 years after the claim accrues. The court shall award costs and a reasonable attorney's fee to the

person when a judgment is entered for that person.

**§ 32711. Relationship to State law**

Except to the extent that State law is inconsistent with this chapter, this chapter does not--

(1) affect a State law on disconnecting, altering, or tampering with an odometer with intent to defraud; or

(2) exempt a person from complying with that law.

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SUBTITLE VI. MOTOR VEHICLE AND DRIVER PROGRAMS

**PART C. INFORMATION, STANDARDS, AND REQUIREMENTS**

**CHAPTER 329. AUTOMOBILE FUEL ECONOMY**

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**§ 32901. Definitions**

**(a) General.**--In this chapter--

**(1)** "alternative fuel" means--

(A) methanol;

(B) denatured ethanol;

(C) other alcohols;

(D) except as provided in subsection (b) of this section, a mixture containing at least 85 percent of methanol, denatured ethanol, and other alcohols by volume with gasoline or other fuels;

(E) natural gas;

(F) liquefied petroleum gas;

(G) hydrogen;

(H) coal derived liquid fuels;

**(I)** fuels (except alcohol) derived from biological materials;

**(I)** electricity (including electricity from solar energy); and

**(K)** any other fuel the Secretary of Transportation prescribes by regulation that is not substantially petroleum and that would yield substantial energy security and environmental benefits.

**(2)** "alternative fueled automobile" means an automobile that is a--

(A) dedicated automobile; or

(B) dual fueled automobile.

**(3)** except as provided in section 32908 of this title, "automobile" means a 4-wheeled vehicle that is propelled by fuel, or by alternative fuel, manufactured primarily for use on public streets, roads, and highways and rated at less than 10,000 pounds gross vehicle weight, except--

(A) a vehicle operated only on a rail line;

(B) a vehicle manufactured in different stages by 2 or more manufacturers, if no intermediate or final-stage manufacturer of that vehicle manufactures more than 10,000 multi-stage vehicles per year; or

**(C)** a work truck.

(4) "automobile manufactured by a manufacturer" includes every automobile manufactured by a person that controls, is controlled by, or is under common control with the manufacturer, but does not include an automobile manufactured by the person that is exported not later than 30 days after the end of the model year in which the automobile is manufactured.

(5) "average fuel economy" means average fuel economy determined under section 32904 of this title.

(6) "average fuel economy standard" means a performance standard specifying a minimum level of average fuel economy applicable to a manufacturer in a model year.

(7) "commercial medium- and heavy-duty on-highway vehicle" means an on-highway vehicle with a gross vehicle weight rating of 10,000 pounds or more.

(8) "dedicated automobile" means an automobile that operates only on alternative fuel.

(9) "dual fueled automobile" means an automobile that--

**(A)** is capable of operating on alternative fuel or a mixture of biodiesel and diesel fuel meeting the standard established by the American Society for Testing and Materials or under section 211(u) of the Clean Air Act (42 U.S.C. 7545(u)) for fuel containing 20 percent biodiesel (commonly known as "B20") and on gasoline or diesel fuel;

(B) provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the United States Government, when operating on alternative fuel as when operating on gasoline or diesel fuel;

(C) for model years 1993-1995 for an automobile capable of operating on a mixture of an alternative fuel and gasoline or diesel fuel and if the Administrator of the Environmental Protection Agency decides to extend the application of this subclause, for an additional period ending not later than the end of the last model year to which section 32905(b) and (d) of this title applies, provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the Government, when operating on a mixture of alternative fuel and gasoline or diesel fuel containing exactly 50 percent gasoline or diesel fuel as when operating on gasoline or diesel fuel; and

**(D)** for a passenger automobile, meets or exceeds the minimum driving range prescribed under subsection (c) of this section.

**(10)** "fuel" means--

(A) gasoline;

(B) diesel oil; or

**(C)** other liquid or gaseous fuel that the Secretary decides by regulation to include in this definition as consistent with the need of the United States to conserve energy.

**(11)** "fuel economy" means the average number of miles traveled by an automobile for each gallon of gasoline (or equivalent amount of other fuel) used, as determined by the Administrator under section 32904(c) of this title.

(12) "import" means to import into the customs territory of the United States.

(13) "manufacture" (except under section 32902(d) of this title) means to produce or assemble in the customs territory of the United States or to import.

**(14)** "manufacturer" means--

(A) a person engaged in the business of manufacturing automobiles, including a predecessor or successor of the person to the extent provided under regulations prescribed by the Secretary; and

(B) if more than one person is the manufacturer of an automobile, the person specified under regulations prescribed by the Secretary.

**(15)** "model" means a class of automobiles as decided by regulation by the Administrator after consulting and coordinating with the Secretary.

**(16)** "model year", when referring to a specific calendar year, means--

(A) the annual production period of a manufacturer, as decided by the Administrator, that includes January 1 of that calendar year; or

(B) that calendar year if the manufacturer does not have an annual production period.

(17) “non-passenger automobile” means an automobile that is not a passenger automobile or a work truck.

(18) “passenger automobile” means an automobile that the Secretary decides by regulation is manufactured primarily for transporting not more than 10 individuals, but does not include an automobile capable of off-highway operation that the Secretary decides by regulation--

(A) has a significant feature (except 4-wheel drive) designed for off-highway operation; and

(B) is a 4-wheel drive automobile or is rated at more than 6,000 pounds gross vehicle weight.

**(19)** “work truck” means a vehicle that--

(A) is rated at between 8,500 and 10,000 pounds gross vehicle weight; and

(B) is not a medium-duty passenger vehicle (as defined in section 86.1803-01 of title 40, Code of Federal Regulations, as in effect on the date of the enactment of the Ten-in-Ten Fuel Economy Act).

**(b) Authority to change percentage.**--The Secretary may prescribe regulations changing the percentage referred to in subsection (a)(1)(D) of this section to not less than 70 percent because of requirements relating to cold start, safety, or vehicle functions.

**(c) Minimum driving ranges for dual fueled passenger automobiles.--(1)** The Secretary shall prescribe by regulation the minimum driving range that dual fueled automobiles that are passenger automobiles must meet when operating on alternative fuel to be dual fueled automobiles under sections 32905 and 32906 of this title. A determination whether a dual fueled automobile meets the minimum driving range requirement under this paragraph shall be based on the combined Agency city/highway fuel economy as determined for average fuel economy purposes for those automobiles.

(2)(A) The Secretary may prescribe a lower range for a specific model than that prescribed under paragraph (1) of this subsection. A manufacturer may petition for a lower range than that prescribed under paragraph (1) for a specific model.

(B) The minimum driving range prescribed for dual fueled automobiles (except electric automobiles) under subparagraph (A) of this paragraph or paragraph (1) of this subsection must be at least 200 miles.

(C) If the Secretary prescribes a minimum driving range of 200 miles for dual fueled automobiles (except electric automobiles) under paragraph (1) of this subsection, subparagraph (A) of this paragraph does not apply to dual fueled automobiles (except electric automobiles).

**(3)** In prescribing a minimum driving range under paragraph (1) of this subsection and in taking an action under paragraph (2) of this subsection, the Secretary shall consider the purpose set forth in section 3 of the Alternative Motor Fuels Act of 1988 (Public Law 100-494, 102 Stat. 2442), consumer acceptability, economic practicability, technology, environmental impact, safety, drivability, performance, and other factors the Secretary considers relevant.

**§ 32902. Average fuel economy standards**

**(a) Prescription of standards by regulation.**--At least 18 months before the beginning of each model year, the Secretary of Transportation shall prescribe by regulation average fuel economy standards for automobiles

manufactured by a manufacturer in that model year. Each standard shall be the maximum feasible average fuel economy level that the Secretary decides the manufacturers can achieve in that model year.

**(b) Standards for automobiles and certain other vehicles.--**

**(1) In general.**--The Secretary of Transportation, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall prescribe separate average fuel economy standards for--

(A) passenger automobiles manufactured by manufacturers in each model year beginning with model year 2011 in accordance with this subsection;

(B) non-passenger automobiles manufactured by manufacturers in each model year beginning with model year 2011 in accordance with this subsection; and

**(C)** work trucks and commercial medium-duty or heavy-duty on-highway vehicles in accordance with subsection (k).

**(2) Fuel economy standards for automobiles.--**

**(A) Automobile fuel economy average for model years 2011 through 2020.**--The Secretary shall prescribe a separate average fuel economy standard for passenger automobiles and a separate average fuel economy standard for non-passenger automobiles for each model year beginning with model year 2011 to achieve a combined fuel economy average for model year 2020 of at least 35 miles per gallon for the total fleet of passenger and non-passenger automobiles manufactured for sale in the United States for that model year.

**(B) Automobile fuel economy average for model years 2021 through 2030.**--For model years 2021 through 2030, the average fuel economy required to be attained by each fleet of passenger and non-passenger automobiles manufactured for sale in the United States shall be the maximum feasible average fuel economy standard for each fleet for that model year.

**(C) Progress toward standard required.**--In prescribing average fuel economy standards under subparagraph (A), the Secretary shall prescribe annual fuel economy standard increases that increase the applicable average fuel economy standard ratably beginning with model year 2011 and ending with model year 2020.

**(3) Authority of the Secretary.**--The Secretary shall--

(A) prescribe by regulation separate average fuel economy standards for passenger and non-passenger automobiles based on 1 or more vehicle attributes related to fuel economy and express each standard in the form of a mathematical function; and

(B) issue regulations under this title prescribing average fuel economy standards for at least 1, but not more than 5, model years.

**(4) Minimum standard.**--In addition to any standard prescribed pursuant to paragraph (3), each manufacturer shall also meet the minimum standard for domestically manufactured passenger automobiles, which shall be the greater of--

**(A)** 27.5 miles per gallon; or

**(B)** 92 percent of the average fuel economy projected by the Secretary for the combined domestic and non-domestic passenger automobile fleets manufactured for sale in the United States by all manufacturers in the model year, which projection shall be published in the Federal Register when the standard for that model year is promulgated in accordance with this section.

**(c)Amending passenger automobile standards.**--The Secretary of Transportation may prescribe regulations amending the standard under subsection (b) of this section for a model year to a level that the Secretary decides is the maximum feasible average fuel economy level for that model year. Section 553 of title 5 applies to a proceeding to amend the standard. However, any interested person may make an oral presentation and a transcript shall be taken of that presentation.

**(d) Exemptions.--(1)** Except as provided in paragraph (3) of this subsection, on application of a manufacturer that manufactured (whether in the United States or not) fewer than 10,000 passenger automobiles in the model year 2 years before the model year for which the application is made, the Secretary of Transportation may exempt by regulation the manufacturer from a standard under subsection (b) or (c) of this section. An exemption for a model year applies only if the manufacturer manufactures (whether in the United States or not) fewer than 10,000 passenger automobiles in the model year. The Secretary may exempt a manufacturer only if the Secretary--

(A) finds that the applicable standard under those subsections is more stringent than the maximum feasible average fuel economy level that the manufacturer can achieve; and

(B) prescribes by regulation an alternative average fuel economy standard for the passenger automobiles manufactured by the exempted manufacturer that the Secretary decides is the maximum feasible average fuel economy level for the manufacturers to which the alternative standard applies.

(2) An alternative average fuel economy standard the Secretary of Transportation prescribes under paragraph (1)(B) of this subsection may apply to an individually exempted manufacturer, to all automobiles to which this subsection applies, or to classes of passenger automobiles, as defined under regulations of the Secretary, manufactured by exempted manufacturers.

(3) Notwithstanding paragraph (1) of this subsection, an importer registered under section 30141(c) of this title may not be exempted as a manufacturer under paragraph (1) for a motor vehicle that the importer--

(A) imports; or

(B) brings into compliance with applicable motor vehicle safety standards prescribed under chapter 301 of this title for an individual under section 30142 of this title.

**(4)** The Secretary of Transportation may prescribe the contents of an application for an exemption.

**(e) Emergency vehicles.--(1)** In this subsection, “emergency vehicle” means an automobile manufactured primarily for use--

(A) as an ambulance or combination ambulance-hearse;

(B) by the United States Government or a State or local government for law enforcement; or

**(C)** for other emergency uses prescribed by regulation by the Secretary of Transportation.

**(2)** A manufacturer may elect to have the fuel economy of an emergency vehicle excluded in applying a fuel economy standard under subsection (a), (b), (c), or (d) of this section. The election is made by providing written notice to the Secretary of Transportation and to the Administrator of the Environmental Protection Agency.

**(f) Considerations on decisions on maximum feasible average fuel economy.**--When deciding maximum feasible average fuel economy under this section, the Secretary of Transportation shall consider technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy.

**(g) Requirements for other amendments.--(1)** The Secretary of Transportation may prescribe regulations amending an average fuel economy standard prescribed under subsection (a) or (d) of this section if the amended standard meets the requirements of subsection (a) or (d), as appropriate.

**(2)** When the Secretary of Transportation prescribes an amendment under this section that makes an average fuel economy standard more stringent, the Secretary shall prescribe the amendment (and submit the amendment to Congress when required under subsection (c)(2) of this section) at least 18 months before the beginning of the model year to which the amendment applies.

**(h) Limitations.**--In carrying out subsections (c), (f), and (g) of this section, the Secretary of Transportation--

(1) may not consider the fuel economy of dedicated automobiles;

(2) shall consider dual fueled automobiles to be operated only on gasoline or diesel fuel; and

**(3)** may not consider, when prescribing a fuel economy standard, the trading, transferring, or availability of credits under section 32903.

**(i) Consultation.**--The Secretary of Transportation shall consult with the Secretary of Energy in carrying out this section and section 32903 of this title.

**(j) Secretary of Energy comments.--(1)** Before issuing a notice proposing to prescribe or amend an average fuel economy standard under subsection (a), (c), or (g) of this section, the Secretary of Transportation shall give the Secretary of Energy at least 10 days from the receipt of the notice during which the Secretary of Energy may, if the Secretary of Energy concludes that the proposed standard would adversely affect the conservation goals of the Secretary of Energy, provide written comments to the Secretary of Transportation about the impact of the standard on those goals. To the extent the Secretary of Transportation does not revise a proposed standard to take into account comments of the Secretary of Energy on any adverse impact of the standard, the Secretary of Transportation shall include those comments in the notice.

**(2)** Before taking final action on a standard or an exemption from a standard under this section, the Secretary of Transportation shall notify the Secretary of Energy and provide the Secretary of Energy a reasonable time to comment.

**(k) Commercial medium- and heavy-duty on-highway vehicles and work trucks.--**

**(1) Study.**--Not later than 1 year after the National Academy of Sciences publishes the results of its study under section 108 of the Ten-in-Ten Fuel Economy Act, the Secretary of Transportation, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall examine the fuel efficiency of commercial medium- and heavy-duty on-highway vehicles and work trucks and determine--

**(A)** the appropriate test procedures and methodologies for measuring the fuel efficiency of such vehicles

and work trucks;

(B) the appropriate metric for measuring and expressing commercial medium- and heavy-duty on-highway vehicle and work truck fuel efficiency performance, taking into consideration, among other things, the work performed by such on-highway vehicles and work trucks and types of operations in which they are used;

(C) the range of factors, including, without limitation, design, functionality, use, duty cycle, infrastructure, and total overall energy consumption and operating costs that affect commercial medium- and heavy-duty on-highway vehicle and work truck fuel efficiency; and

**(D)** such other factors and conditions that could have an impact on a program to improve commercial medium- and heavy-duty on-highway vehicle and work truck fuel efficiency.

**(2) Rulemaking.**--Not later than 24 months after completion of the study required under paragraph (1), the Secretary, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, by regulation, shall determine in a rulemaking proceeding how to implement a commercial medium- and heavy-duty on-highway vehicle and work truck fuel efficiency improvement program designed to achieve the maximum feasible improvement, and shall adopt and implement appropriate test methods, measurement metrics, fuel economy standards, and compliance and enforcement protocols that are appropriate, cost-effective, and technologically feasible for commercial medium- and heavy-duty on-highway vehicles and work trucks. The Secretary may prescribe separate standards for different classes of vehicles under this subsection.

**(3) Lead-time; regulatory stability.**--The commercial medium- and heavy-duty on-highway vehicle and work truck fuel economy standard adopted pursuant to this subsection shall provide not less than--

(A) 4 full model years of regulatory lead-time; and

(B) 3 full model years of regulatory stability.

**§ 32903. Credits for exceeding average fuel economy standards**

**(a) Earning and period for applying credits.**--When the average fuel economy of passenger automobiles manufactured by a manufacturer in a particular model year exceeds an applicable average fuel economy standard under subsections (a) through (d) of section 32902 (determined by the Secretary of Transportation without regard to credits under this section), the manufacturer earns credits. The credits may be applied to--

(1) any of the 3 consecutive model years immediately before the model year for which the credits are earned; and

(2) to the extent not used under paragraph (1) any of the 5 consecutive model years immediately after the model year for which the credits are earned.

**(b) Period of availability and plan for future credits.--(1)** Except as provided in paragraph (2) of this subsection, credits under this section are available to a manufacturer at the end of the model year in which earned.

(2)(A) Before the end of a model year, if a manufacturer has reason to believe that its average fuel economy for passenger automobiles will be less than the applicable standard for that model year, the manufacturer may submit a plan to the Secretary of Transportation demonstrating that the manufacturer will earn sufficient credits under this section within the next 3 model years to allow the manufacturer to meet that standard for the model year involved. Unless the Secretary finds that the manufacturer is unlikely to earn sufficient credits under the plan, the Secretary

shall approve the plan. Those credits are available for the model year involved if--

(i) the Secretary approves the plan; and

(ii) the manufacturer earns those credits as provided by the plan.

**(B)** If the average fuel economy of a manufacturer is less than the applicable standard under subsections (a) through (d) of section 32902 after applying credits under subsection (a)(1) of this section, the Secretary of Transportation shall notify the manufacturer and give the manufacturer a reasonable time (of at least 60 days) to submit a plan.

**(c) Determining number of credits.**--The number of credits a manufacturer earns under this section equals the product of--

(1) the number of tenths of a mile a gallon by which the average fuel economy of the passenger automobiles manufactured by the manufacturer in the model year in which the credits are earned exceeds the applicable average fuel economy standard under subsections (a) through (d) of section 32902; times

(2) the number of passenger automobiles manufactured by the manufacturer during that model year.

**(d) Applying credits for passenger automobiles.**--The Secretary of Transportation shall apply credits to a model year on the basis of the number of tenths of a mile a gallon by which the manufacturer involved was below the applicable average fuel economy standard for that model year and the number of passenger automobiles manufactured that model year by the manufacturer. Credits applied to a model year are no longer available for another model year. Before applying credits, the Secretary shall give the manufacturer written notice and reasonable opportunity to comment.

**(e) Applying credits for non-passenger automobiles.**--Credits for a manufacturer of automobiles that are not passenger automobiles are earned and applied to a model year in which the average fuel economy of that class of automobiles is below the applicable average fuel economy standard under section 32902(a) of this title, to the same extent and in the same way as provided in this section for passenger automobiles.

**(f) Credit trading among manufacturers.--**

**(1) In general.**--The Secretary of Transportation may establish, by regulation, a fuel economy credit trading program to allow manufacturers whose automobiles exceed the average fuel economy standards prescribed under section 32902 to earn credits to be sold to manufacturers whose automobiles fail to achieve the prescribed standards such that the total oil savings associated with manufacturers that exceed the prescribed standards are preserved when trading credits to manufacturers that fail to achieve the prescribed standards.

**(2) Limitation.**--The trading of credits by a manufacturer to the category of passenger automobiles manufactured domestically is limited to the extent that the fuel economy level of such automobiles shall comply with the requirements of section 32902(b)(4), without regard to any trading of credits from other manufacturers.

**(g) Credit transferring within a manufacturer's fleet.--**

**(1) In general.**--The Secretary of Transportation shall establish by regulation a fuel economy credit transferring program to allow any manufacturer whose automobiles exceed any of the average fuel economy standards prescribed under section 32902 to transfer the credits earned under this section and to apply such credits within that manufacturer's fleet to a compliance category of automobiles that fails to achieve the prescribed standards.

**(2) Years for which used.**--Credits transferred under this subsection are available to be used in the same model years that the manufacturer could have applied such credits under subsections (a), (b), (d), and (e), as well as for the model year in which the manufacturer earned such credits.

**(3) Maximum increase.**--The maximum increase in any compliance category attributable to transferred credits is--

(A) for model years 2011 through 2013, 1.0 mile per gallon;

(B) for model years 2014 through 2017, 1.5 miles per gallon; and **(C)**

for model year 2018 and subsequent model years, 2.0 miles per gallon.

**(4) Limitation.**--The transfer of credits by a manufacturer to the category of passenger automobiles manufactured domestically is limited to the extent that the fuel economy level of such automobiles shall comply with the requirements under section 32904(b)(4), without regard to any transfer of credits from other categories of automobiles described in paragraph (6)(B).

**(5) Years available.**--A credit may be transferred under this subsection only if it is earned after model year 2010.

**(6) Definitions.**--In this subsection:

**(A) Fleet.**--The term "fleet" means all automobiles manufactured by a manufacturer in a particular model year.

**(B) Compliance category of automobiles.**--The term "compliance category of automobiles" means any of the following 3 categories of automobiles for which compliance is separately calculated under this chapter:

(i) Passenger automobiles manufactured domestically.

(ii) Passenger automobiles not manufactured domestically. **(iii)** Non-

passenger automobiles.

**(h) Refund of collected penalty.**--When a civil penalty has been collected under this chapter from a manufacturer that has earned credits under this section, the Secretary of the Treasury shall refund to the manufacturer the amount of the penalty to the extent the penalty is attributable to credits available under this section.

**§ 32904. Calculation of average fuel economy**

**(a) Method of calculation.--(1)** The Administrator of the Environmental Protection Agency shall calculate the average fuel economy of a manufacturer subject to--

(A) section 32902(a) of this title in a way prescribed by the Administrator; and

(B) section 32902(b)-(d) of this title by dividing--

**(i)** the number of passenger automobiles manufactured by the manufacturer in a model year; by

**(ii)** the sum of the fractions obtained by dividing the number of passenger automobiles of each model manufactured by the manufacturer in that model year by the fuel economy measured for that model.

(2)(A) In this paragraph, "electric vehicle" means a vehicle powered primarily by an electric motor drawing electrical current from a portable source.

**(B)** If a manufacturer manufactures an electric vehicle, the Administrator shall include in the calculation of average fuel economy under paragraph (1) of this subsection equivalent petroleum based fuel economy values determined by the Secretary of Energy for various classes of electric vehicles. The Secretary shall review those values each year and determine and propose necessary revisions based on the following factors:

(i) the approximate electrical energy efficiency of the vehicle, considering the kind of vehicle and the mission and weight of the vehicle.

(ii) the national average electrical generation and transmission efficiencies.

(iii) the need of the United States to conserve all forms of energy and the relative scarcity and value to the United States of all fuel used to generate electricity.

(iv) the specific patterns of use of electric vehicles compared to petroleum-fueled vehicles.

**(b) Separate calculations for passenger automobiles manufactured domestically and not domestically.--**
**(1)(A)** Except as provided in paragraphs (6) and (7) of this subsection, the Administrator shall make separate calculations under subsection (a)(1)(B) of this section for--

(i) passenger automobiles manufactured domestically by a manufacturer (or included in this category under paragraph (5) of this subsection); and

(ii) passenger automobiles not manufactured domestically by that manufacturer (or excluded from this category under paragraph (5) of this subsection).

**(B)** Passenger automobiles described in subparagraph (A)(i) and (ii) of this paragraph are deemed to be manufactured by separate manufacturers under this chapter, except for the purposes of section 32903.

**(2)** In this subsection (except as provided in paragraph (3)), a passenger automobile is deemed to be manufactured domestically in a model year if at least 75 percent of the cost to the manufacturer is attributable to value added in the United States or Canada, unless the assembly of the automobile is completed in Canada and the automobile is imported into the United States more than 30 days after the end of the model year.

(3)(A) In this subsection, a passenger automobile is deemed to be manufactured domestically in a model year, as provided in subparagraph (B) of this paragraph, if at least 75 percent of the cost to the manufacturer is attributable to value added in the United States, Canada, or Mexico, unless the assembly of the automobile is completed in Canada or Mexico and the automobile is imported into the United States more than 30 days after the end of the model year.

**(B)** Subparagraph (A) of this paragraph applies to automobiles manufactured by a manufacturer and sold in the United States, regardless of the place of assembly, as follows:

**(i)** A manufacturer that began assembling automobiles in Mexico before model year 1992 may elect, during the period from January 1, 1997, through January 1, 2004, to have subparagraph (A) of this paragraph apply to all automobiles manufactured by that manufacturer beginning with the model year that begins after the date of the

election.

(ii) For a manufacturer that began assembling automobiles in Mexico after model year 1991, subparagraph (A) of this paragraph applies to all automobiles manufactured by that manufacturer beginning with the model year that begins after January 1, 1994, or the model year beginning after the date the manufacturer begins assembling automobiles in Mexico, whichever is later.

(iii) A manufacturer not described in clause (i) or (ii) of this subparagraph that assembles automobiles in the United States or Canada, but not in Mexico, may elect, during the period from January 1, 1997, through January 1, 2004, to have subparagraph (A) of this paragraph apply to all automobiles manufactured by that manufacturer beginning with the model year that begins after the date of the election. However, if the manufacturer begins assembling automobiles in Mexico before making an election under this subparagraph, this clause does not apply, and the manufacturer is subject to clause (ii) of this subparagraph.

(iv) For a manufacturer that does not assemble automobiles in the United States, Canada, or Mexico, subparagraph (A) of this paragraph applies to all automobiles manufactured by that manufacturer beginning with the model year that begins after January 1, 1994.

(v) For a manufacturer described in clause (i) or (iii) of this subparagraph that does not make an election within the specified period, subparagraph (A) of this paragraph applies to all automobiles manufactured by that manufacturer beginning with the model year that begins after January 1, 2004.

**(C)** The Secretary of Transportation shall prescribe reasonable procedures for elections under subparagraph (B) of this paragraph.

**(4)** In this subsection, the fuel economy of a passenger automobile that is not manufactured domestically is deemed to be equal to the average fuel economy of all passenger automobiles manufactured by the same manufacturer that are not manufactured domestically.

(5)(A) A manufacturer may submit to the Secretary of Transportation for approval a plan, including supporting material, stating the actions and the deadlines for taking the actions, that will ensure that the model or models referred to in subparagraph (B) of this paragraph will be manufactured domestically before the end of the 4th model year covered by the plan. The Secretary promptly shall consider and act on the plan. The Secretary shall approve the plan unless--

(i) the Secretary finds that the plan is inadequate to meet the requirements of this paragraph; or

(ii) the manufacturer previously has submitted a plan approved by the Secretary under this paragraph.

**(B)** If the plan is approved, the Administrator shall include under paragraph (1)(A)(i) and exclude under paragraph (1)(A)(ii) of this subsection, for each of the 4 model years covered by the plan, not more than 150,000 passenger automobiles manufactured by that manufacturer but not qualifying as domestically manufactured if--

(i) the model or models involved previously have not been manufactured domestically;

(ii) at least 50 percent of the cost to the manufacturer of each of the automobiles is attributable to value added in the United States or Canada;

**(iii)** the automobiles, if their assembly was completed in Canada, are imported into the United States not later than 30 days after the end of the model year; and

**(iv)** the model or models are manufactured domestically before the end of the 4th model year covered by the plan.

[**(6) to (8)** Repealed. Pub. L. 110-140, Title I, § 113(a), Dec. 19, 2007, 121 Stat. 1508]

**(c) Testing and calculation procedures.**--The Administrator shall measure fuel economy for each model and calculate average fuel economy for a manufacturer under testing and calculation procedures prescribed by the Administrator. However, except under section 32908 of this title, the Administrator shall use the same procedures for passenger automobiles the Administrator used for model year 1975 (weighted 55 percent urban cycle and 45 percent highway cycle), or procedures that give comparable results. A measurement of fuel economy or a calculation of average fuel economy (except under section 32908) shall be rounded off to the nearest .1 of a mile a gallon. The Administrator shall decide on the quantity of other fuel that is equivalent to one gallon of gasoline. To the extent practicable, fuel economy tests shall be carried out with emissions tests under section 206 of the Clean Air Act (42 U.S.C. 7525).

**(d) Effective date of procedure or amendment.**--The Administrator shall prescribe a procedure under this section, or an amendment (except a technical or clerical amendment) in a procedure, at least 12 months before the beginning of the model year to which the procedure or amendment applies.

**(e) Reports and consultation.**--The Administrator shall report measurements and calculations under this section to the Secretary of Transportation and shall consult and coordinate with the Secretary in carrying out this section.

**§ 32905. Manufacturing incentives for alternative fuel automobiles**

**(a) Dedicated automobiles.**--Except as provided in subsection (c) of this section or section 32904(a)(2) of this title, for any model of dedicated automobile manufactured by a manufacturer after model year 1992, the fuel economy measured for that model shall be based on the fuel content of the alternative fuel used to operate the automobile. A gallon of a liquid alternative fuel used to operate a dedicated automobile is deemed to contain .15 gallon of fuel.

**(b) Dual fueled automobiles.**--Except as provided in subsection (d) of this section or section 32904(a)(2) of this title, for any model of dual fueled automobile manufactured by a manufacturer in model years 1993 through 2019, the Administrator of the Environmental Protection Agency shall measure the fuel economy for that model by dividing 1.0 by the sum of--

(1) .5 divided by the fuel economy measured under section 32904(c) of this title when operating the model on gasoline or diesel fuel; and

(2) .5 divided by the fuel economy--

(A) measured under subsection (a) when operating the model on alternative fuel; or

(B) measured based on the fuel content of B20 when operating the model on B20, which is deemed to contain 0.15 gallon of fuel.

**(c) Gaseous fuel dedicated automobiles.**--For any model of gaseous fuel dedicated automobile manufactured by a manufacturer after model year 1992, the Administrator shall measure the fuel economy for that model based on the fuel content of the gaseous fuel used to operate the automobile. One hundred cubic feet of natural gas is deemed to contain .823 gallon equivalent of natural gas. The Secretary of Transportation shall determine the appropriate gallon equivalent of other gaseous fuels. A gallon equivalent of gaseous fuel is deemed to have a fuel content of .15 gallon of fuel.

**(d) Gaseous fuel dual fueled automobiles.**--For any model of gaseous fuel dual fueled automobile manufactured by a manufacturer in model years 1993 through 2019, the Administrator shall measure the fuel economy for that model by dividing 1.0 by the sum of--

(1) .5 divided by the fuel economy measured under section 32904(c) of this title when operating the model on gasoline or diesel fuel; and

(2) .5 divided by the fuel economy measured under subsection (c) of this section when operating the model on gaseous fuel.

**(e) Fuel economy calculations.**--The Administrator shall calculate the manufacturer's average fuel economy under section 32904(a)(1) of this title for each model described under subsections (a)-(d) of this section by using as the denominator the fuel economy measured for each model under subsections (a)-(d).

**(f) Fuel economy incentive requirements.**--In order for any model of dual fueled automobile to be eligible to receive the fuel economy incentives included in section 32906(a) and (b), a label shall be attached to the fuel compartment of each dual fueled automobile of that model, notifying that the vehicle can be operated on an alternative fuel and on gasoline or diesel, with the form of alternative fuel stated on the notice. This requirement applies to dual fueled automobiles manufactured on or after September 1, 2006.

**[(g) Repealed.** Pub. L. 110-140, Title I, § 109(b)(3), Dec. 19, 2007, 121 Stat. 1506]

**[(h) Redesignated (f)]**

**§ 32906. Maximum fuel economy increase for alternative fuel automobiles**

**(a) In general.**--For each of model years 1993 through 2019 for each category of automobile (except an electric automobile), the maximum increase in average fuel economy for a manufacturer attributable to dual fueled automobiles is--

(1) 1.2 miles a gallon for each of model years 1993 through 2014;

(2) 1.0 miles per gallon for model year 2015;

(3) 0.8 miles per gallon for model year 2016;

(4) 0.6 miles per gallon for model year 2017;

(5) 0.4 miles per gallon for model year 2018;

(6) 0.2 miles per gallon for model year 2019;

and **(7)** 0 miles per gallon for model years after 2019.

**(b) Calculation.**--In applying subsection (a), the Administrator of the Environmental Protection Agency shall determine the increase in a manufacturer's average fuel economy attributable to dual fueled automobiles by subtracting from the manufacturer's average fuel economy calculated under section 32905(e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula under section 32904(a)(1) by including as the denominator for each model of dual fueled automobiles the fuel economy when

the automobiles are operated on gasoline or diesel fuel.

**§ 32907. Reports and tests of manufacturers**

**(a) Manufacturer reports.--(1)** A manufacturer shall report to the Secretary of Transportation on--

(A) whether the manufacturer will comply with an applicable average fuel economy standard under section 32902 of this title for the model year for which the report is made;

(B) the actions the manufacturer has taken or intends to take to comply with the standard; and

**(C)** other information the Secretary requires by regulation.

**(2)** A manufacturer shall submit a report under paragraph (1) of this subsection during the 30 days--

(A) before the beginning of each model year; and

(B) beginning on the 180th day of the model year.

**(3)** When a manufacturer decides that actions reported under paragraph (1)(B) of this subsection are not sufficient to ensure compliance with that standard, the manufacturer shall report to the Secretary additional actions the manufacturer intends to take to comply with the standard and include a statement about whether those actions are sufficient to ensure compliance.

**(4)** This subsection does not apply to a manufacturer for a model year for which the manufacturer is subject to an alternative average fuel economy standard under section 32902(d) of this title.

**(b) Records, reports, tests, information, and inspection.--(1)** Under regulations prescribed by the Secretary or the Administrator of the Environmental Protection Agency to carry out this chapter, a manufacturer shall keep records, make reports, conduct tests, and provide items and information. On request and display of proper credentials, an officer or employee designated by the Secretary or Administrator may inspect automobiles and records of the manufacturer. An inspection shall be made at a reasonable time and in a reasonable way.

**(2)** The district courts of the United States may--

(A) issue an order enforcing a requirement or request under paragraph (1) of this subsection; and

(B) punish a failure to obey the order as a contempt of court.

**§ 32908. Fuel economy information**

**(a) Definitions.**--In this section--

(1) “automobile” includes an automobile rated at not more than 8,500 pounds gross vehicle weight regardless of whether the Secretary of Transportation has applied this chapter to the automobile under section 32901 (a)(3)(B) of this title.

(2) “dealer” means a person residing or located in a State, the District of Columbia, or a territory or possession of the United States, and engaged in the sale or distribution of new automobiles to the first person (except a dealer buying as a dealer) that buys the automobile in good faith other than for resale.

**(b) Labeling requirements and contents.--(1)** Under regulations of the Administrator of the Environmental Protection Agency, a manufacturer of automobiles shall attach a label to a prominent place on each automobile manufactured in a model year. The dealer shall maintain the label on the automobile. The label shall contain the following information:

(A) the fuel economy of the automobile.

(B) the estimated annual fuel cost of operating the automobile.

(C) the range of fuel economy of comparable automobiles of all manufacturers.

(D) a statement that a booklet is available from the dealer to assist in making a comparison of fuel economy of other automobiles manufactured by all manufacturers in that model year.

(E) the amount of the automobile fuel efficiency tax imposed on the sale of the automobile under section 4064 of the Internal Revenue Code of 1986 (26 U.S.C. 4064).

(F) other information required or authorized by the Administrator that is related to the information required by clauses (A)-(D) of this paragraph.

**(2)** The Administrator may allow a manufacturer to comply with this subsection by--

(A) disclosing the information on the label required under section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232); and

(B) including the statement required by paragraph (1)(E) of this subsection at a time and in a way that takes into account special circumstances or characteristics.

**(3)** For dedicated automobiles manufactured after model year 1992, the fuel economy of those automobiles under paragraph (1)(A) of this subsection is the fuel economy for those automobiles when operated on alternative fuel, measured under section 32905(a) or (c) of this title, multiplied by .15. Each label required under paragraph (1) of this subsection for dual fueled automobiles shall--

(A) indicate the fuel economy of the automobile when operated on gasoline or diesel fuel;

(B) clearly identify the automobile as a dual fueled automobile;

(C) clearly identify the fuels on which the automobile may be operated; and

(D) contain a statement informing the consumer that the additional information required by subsection (c)(2) of this section is published and distributed by the Secretary of Energy.

**(c) Fuel economy information booklet.--(1)** The Administrator shall prepare the booklet referred to in subsection (b)(1)(D) of this section. The booklet--

(A) shall be simple and readily understandable;

(B) shall contain information on fuel economy and estimated annual fuel costs of operating automobiles manufactured in each model year; and

**(C)** may contain information on geographical or other differences in estimated annual fuel costs.

(2)(A) For dual fueled automobiles manufactured after model year 1992, the booklet published under paragraph (1) shall contain additional information on--

(i) the energy efficiency and cost of operation of those automobiles when operated on gasoline or diesel fuel as compared to those automobiles when operated on alternative fuel; and

(ii) the driving range of those automobiles when operated on gasoline or diesel fuel as compared to those automobiles when operated on alternative fuel.

**(B)** For dual fueled automobiles, the booklet published under paragraph (1) also shall contain--

(i) information on the miles a gallon achieved by the automobiles when operated on alternative fuel; and

(ii) a statement explaining how the information made available under this paragraph can be expected to change when the automobile is operated on mixtures of alternative fuel and gasoline or diesel fuel.

**(3)** The Secretary of Energy shall publish and distribute the booklet. The Administrator shall prescribe regulations requiring dealers to make the booklet available to prospective buyers.

**(d) Disclosure.**--A disclosure about fuel economy or estimated annual fuel costs under this section does not establish a warranty under a law of the United States or a State.

**(e) Violations.**--A violation of subsection (b) of this section is--

(1) a violation of section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232); and

(2) an unfair or deceptive act or practice in or affecting commerce under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), except sections 5(m) and 18 (15 U.S.C. 45(m), 57a).

**(f) Consultation.**--The Administrator shall consult with the Federal Trade Commission and the Secretaries of Transportation and Energy in carrying out this section.

**(g) Consumer information.--**

**(1) Program.**--The Secretary of Transportation, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and implement by rule a program to require manufacturers--

**(A)** to label new automobiles sold in the United States with--

(i) information reflecting an automobile's performance on the basis of criteria that the Administrator shall develop, not later than 18 months after the date of the enactment of the Ten-in-Ten Fuel Economy Act, to reflect fuel economy and greenhouse gas and other emissions over the useful life of the automobile;

(ii) a rating system that would make it easy for consumers to compare the fuel economy and greenhouse gas and other emissions of automobiles at the point of purchase, including a designation of

automobiles--

(I) with the lowest greenhouse gas emissions over the useful life of the vehicles; and

(II) the highest fuel economy; and

**(iii)** a permanent and prominent display that an automobile is capable of operating on an alternative fuel; and

**(B)** to include in the owner's manual for vehicles capable of operating on alternative fuels information that describes that capability and the benefits of using alternative fuels, including the renewable nature and environmental benefits of using alternative fuels.

**(2) Consumer education.--**

**(A) In general.**--The Secretary of Transportation, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and implement by rule a consumer education program to improve consumer understanding of automobile performance described in paragraph (1)(A)(i) and to inform consumers of the benefits of using alternative fuel in automobiles and the location of stations with alternative fuel capacity.

**(B) Fuel savings education campaign.**--The Secretary of Transportation shall establish a consumer education campaign on the fuel savings that would be recognized from the purchase of vehicles equipped with thermal management technologies, including energy efficient air conditioning systems and glass.

**(3) Fuel tank labels for alternative fuel automobiles.**--The Secretary of Transportation shall by rule require a label to be attached to the fuel compartment of vehicles capable of operating on alternative fuels, with the form of alternative fuel stated on the label. A label attached in compliance with the requirements of section 32905(h) is deemed to meet the requirements of this paragraph.

**(4) Rulemaking deadline.**--The Secretary of Transportation shall issue a final rule under this subsection not later than 42 months after the date of the enactment of the Ten-in-Ten Fuel Economy Act.

**§ 32909. Judicial review of regulations**

**(a) Filing and venue.--(1)** A person that may be adversely affected by a regulation prescribed in carrying out any of sections 32901-32904 or 32908 of this title may apply for review of the regulation by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

**(2)** A person adversely affected by a regulation prescribed under section 32912(c)(1) of this title may apply for review of the regulation by filing a petition for review in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

**(b) Time for filing and judicial procedures.**--The petition must be filed not later than 59 days after the regulation is prescribed, except that a petition for review of a regulation prescribing an amendment of a standard submitted to Congress under section 32902(c)(2) of this title must be filed not later than 59 days after the end of the 60-day period referred to in section 32902(c)(2). The clerk of the court shall send immediately a copy of the petition to the Secretary of Transportation or the Administrator of the Environmental Protection Agency, whoever prescribed the regulation. The Secretary or the Administrator shall file with the court a record of the proceeding in which the regulation was prescribed.

**(c) Additional proceedings.--(1)** When reviewing a regulation under subsection (a)(1) of this section, the court, on request of the petitioner, may order the Secretary or the Administrator to receive additional submissions if the court is satisfied the additional submissions are material and there were reasonable grounds for not presenting the submissions in the proceeding before the Secretary or Administrator.

**(2)** The Secretary or the Administrator may amend or set aside the regulation, or prescribe a new regulation because of the additional submissions presented. The Secretary or Administrator shall file an amended or new regulation and the additional submissions with the court. The court shall review a changed or new regulation.

**(d) Supreme Court review and additional remedies.**--A judgment of a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28. A remedy under subsections (a)(1) and (c) of this section is in addition to any other remedies provided by law.

**§ 32910. Administrative**

**(a) General powers.--(1)** In carrying out this chapter, the Secretary of Transportation or the Administrator of the Environmental Protection Agency may--

(A) inspect and copy records of any person at reasonable times;

(B) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

**(C)** conduct hearings, administer oaths, take testimony, and subpena witnesses and records the Secretary or Administrator considers advisable.

**(2)** A witness summoned under paragraph (1)(C) of this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

**(b) Civil actions to enforce.**--A civil action to enforce a subpena or order of the Secretary or Administrator under subsection (a) of this section may be brought in the district court of the United States for any judicial district in which the proceeding by the Secretary or Administrator is conducted. The court may punish a failure to obey an order of the court to comply with the subpena or order of the Secretary or Administrator as a contempt of court.

**(c) Disclosure of information.**--The Secretary and the Administrator each shall disclose information obtained under this chapter (except information obtained under section 32904(c) of this title) under section 552 of title 5. However, the Secretary or Administrator may withhold information under section 552(b)(4) of title 5 only if the Secretary or Administrator decides that disclosure of the information would cause significant competitive damage. A matter referred to in section 552(b)(4) and relevant to an administrative or judicial proceeding under this chapter may be disclosed in that proceeding. A measurement or calculation under section 32904(c) of this title shall be disclosed under section 552 of title 5 without regard to section 552(b).

**(d) Regulations.**--The Administrator may prescribe regulations to carry out duties of the Administrator under this chapter.

**§ 32911. Compliance**

**(a) General.**--A person commits a violation if the person fails to comply with this chapter and regulations and standards prescribed and orders issued under this chapter (except sections 32902, 32903, 32908(b), 32917(b), and 32918 and regulations and standards prescribed and orders issued under those sections). The Secretary of

Transportation shall conduct a proceeding, with an opportunity for a hearing on the record, to decide whether a person has committed a violation. Any interested person may participate in a proceeding under this subsection.

**(b) Automobile manufacturers.**--A manufacturer of automobiles commits a violation if the manufacturer fails to comply with an applicable average fuel economy standard under section 32902 of this title. Compliance is determined after considering credits available to the manufacturer under section 32903 of this title. If average fuel economy calculations under section 32904(c) of this title indicate that a manufacturer has violated this subsection, the Secretary shall conduct a proceeding, with an opportunity for a hearing on the record, to decide whether a violation has been committed. The Secretary may not conduct the proceeding if further measurements of fuel economy, further calculations of average fuel economy, or other information indicates a violation has not been committed. The results of the measurements and calculations and the information shall be published in the Federal Register. Any interested person may participate in a proceeding under this subsection.

**§ 32912. Civil penalties**

**(a) General penalty.**--A person that violates section 32911(a) of this title is liable to the United States Government for a civil penalty of not more than $10,000 for each violation. A separate violation occurs for each day the violation continues.

**(b) Penalty for manufacturer violations of fuel economy standards.**--Except as provided in subsection (c) of this section, a manufacturer that violates a standard prescribed for a model year under section 32902 of this title is liable to the Government for a civil penalty of $5 multiplied by each .1 of a mile a gallon by which the applicable average fuel economy standard under that section exceeds the average fuel economy--

(1) calculated under section 32904(a)(1)(A) or (B) of this title for automobiles to which the standard applies manufactured by the manufacturer during the model year;

(2) multiplied by the number of those automobiles; and

**(3)** reduced by the credits available to the manufacturer under section 32903 of this title for the model year.

**(c) Higher penalty amounts.--(1)(A)** The Secretary of Transportation shall prescribe by regulation a higher amount for each .1 of a mile a gallon to be used in calculating a civil penalty under subsection (b) of this section, if the Secretary decides that the increase in the penalty--

(i) will result in, or substantially further, substantial energy conservation for automobiles in model years in which the increased penalty may be imposed; and

(ii) will not have a substantial deleterious impact on the economy of the United States, a State, or a region of a State.

(B) The amount prescribed under subparagraph (A) of this paragraph may not be more than $10 for each .1 of a mile a gallon.

(C) The Secretary may make a decision under subparagraph (A)(ii) of this paragraph only when the Secretary decides that it is likely that the increase in the penalty will not- -

(i) cause a significant increase in unemployment in a State or a region of a State;

(ii) adversely affect competition; or

**(iii)** cause a significant increase in automobile imports.

**(D)** A higher amount prescribed under subparagraph (A) of this paragraph is effective for the model year beginning at least 18 months after the regulation stating the higher amount becomes final.

**(2)** The Secretary shall publish in the Federal Register a proposed regulation under this subsection and a statement of the basis for the regulation and provide each manufacturer of automobiles a copy of the proposed regulation and the statement. The Secretary shall provide a period of at least 45 days for written public comments on the proposed regulation. The Secretary shall submit a copy of the proposed regulation to the Federal Trade Commission and request the Commission to comment on the proposed regulation within that period. After that period, the Secretary shall give interested persons and the Commission an opportunity at a public hearing to present oral information, views, and arguments and to direct questions about disputed issues of material fact to--

(A) other interested persons making oral presentations;

(B) employees and contractors of the Government that made written comments or an oral presentation or participated in the development or consideration of the proposed regulation; and

**(C)** experts and consultants that provided information to a person that the person includes, or refers to, in an oral presentation.

**(3)** The Secretary may restrict the questions of an interested person and the Commission when the Secretary decides that the questions are duplicative or not likely to result in a timely and effective resolution of the issues. A transcript shall be kept of a public hearing under this subsection. A copy of the transcript and written comments shall be available to the public at the cost of reproduction.

(4) The Secretary shall publish a regulation prescribed under this subsection in the Federal Register with the decisions required under paragraph (1) of this subsection.

(5) An officer or employee of a department, agency, or instrumentality of the Government violates section 1905 of title 18 by disclosing, except in an in camera proceeding by the Secretary or a court, information--

(A) provided to the Secretary or the court during consideration or review of a regulation prescribed under this subsection; and

(B) decided by the Secretary to be confidential under section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796(d)).

**(d) Written notice requirement.**--The Secretary shall impose a penalty under this section by written notice.

**(e) Use of civil penalties.**--For fiscal year 2008 and each fiscal year thereafter, from the total amount deposited in the general fund of the Treasury during the preceding fiscal year from fines, penalties, and other funds obtained through enforcement actions conducted pursuant to this section (including funds obtained under consent decrees), the Secretary of the Treasury, subject to the availability of appropriations, shall--

**(1)** transfer 50 percent of such total amount to the account providing appropriations to the Secretary of Transportation for the administration of this chapter, which shall be used by the Secretary to support rulemaking under this chapter; and

**(2)** transfer 50 percent of such total amount to the account providing appropriations to the Secretary of Transportation for the administration of this chapter, which shall be used by the Secretary to carry out a program to make grants to manufacturers for retooling, reequipping, or expanding existing manufacturing facilities in the United States to produce advanced technology vehicles and components.

**§ 32913. Compromising and remitting civil penalties**

**(a) General authority and limitations.**--The Secretary of Transportation may compromise or remit the amount of a civil penalty imposed under section 329 12(a) or (b) of this title. However, the amount of a penalty imposed under section 32912(b) may be compromised or remitted only to the extent--

(1) necessary to prevent the insolvency or bankruptcy of the manufacturer of automobiles;

(2) the manufacturer shows that the violation was caused by an act of God, a strike, or a fire; or

**(3)** the Federal Trade Commission certifies under subsection (b)(1) of this section that a reduction in the penalty is necessary to prevent a substantial lessening of competition.

**(b) Certification by Commission.--(1)** A manufacturer liable for a civil penalty under section 32912(b) of this title may apply to the Commission for a certification that a reduction in the penalty is necessary to prevent a substantial lessening of competition in the segment of the motor vehicle industry subject to the standard that was violated. The Commission shall make the certification when it finds that reduction is necessary to prevent the lessening. The Commission shall state in the certification the maximum amount by which the penalty may be reduced.

(2) An application under this subsection must be made not later than 30 days after the Secretary decides that the manufacturer has violated section 32911(b) of this title. To the maximum extent practicable, the Commission shall make a decision on an application by the 90th day after the application is filed. A proceeding under this subsection may not delay the manufacturer's liability for the penalty for more than 90 days after the application is filed.

(3) When a civil penalty is collected in a civil action under this chapter before a decision of the Commission under this subsection is final, the payment shall be paid to the court in which the action was brought. The court shall deposit the payment in the general fund of the Treasury on the 90th day after the decision of the Commission becomes final. When the court is holding payment of a penalty reduced under subsection (a)(3) of this section, the Secretary shall direct the court to remit the appropriate amount of the penalty to the manufacturer.

**§ 32914. Collecting civil penalties**

**(a) Civil actions.**--If a person does not pay a civil penalty after it becomes a final order of the Secretary of Transportation or a judgment of a court of appeals of the United States for a circuit, the Attorney General shall bring a civil action in an appropriate district court of the United States to collect the penalty. The validity and appropriateness of the final order imposing the penalty is not reviewable in the action.

**(b) Priority of claims.**--A claim of a creditor against a bankrupt or insolvent manufacturer of automobiles has priority over a claim of the United States Government against the manufacturer for a civil penalty under section 329 12(b) of this title when the creditor's claim is for credit extended before a final judgment (without regard to section 32913(b)(1) and (2) of this title) in an action to collect under subsection (a) of this section.

**§ 32915. Appealing civil penalties**

Any interested person may appeal a decision of the Secretary of Transportation to impose a civil penalty under

section 32912(a) or (b) of this title, or of the Federal Trade Commission under section 32913(b)(1) of this title, in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. A person appealing a decision must file a notice of appeal with the court not later than 30 days after the decision and, at the same time, send a copy of the notice by certified mail to the Secretary or the Commission. The Secretary or the Commission promptly shall file with the court a certified copy of the record of the proceeding in which the decision was made.

**§ 32916. Reports to Congress**

**(a) Annual report.**--Not later than January 15 of each year, the Secretary of Transportation shall submit to each House of Congress, and publish in the Federal Register, a report on the review by the Secretary of average fuel economy standards prescribed under this chapter.

**(b) Joint examinations after granting exemptions.--(1)** After an exemption has been granted under section 32904(b)(6) of this title, the Secretaries of Transportation and Labor shall conduct annually a joint examination of the extent to which section 32904(b)(6)--

(A) achieves the purposes of this chapter;

(B) improves fuel efficiency (thereby facilitating conservation of petroleum and reducing petroleum imports);

(C) has promoted employment in the United States related to automobile manufacturing;

(D) has not caused unreasonable harm to the automobile manufacturing sector in the United States; and

**(E)** has permitted manufacturers that have assembled passenger automobiles deemed to be manufactured domestically under section 32904(b)(2) of this title thereafter to assemble in the United States passenger automobiles of the same model that have less than 75 percent of their value added in the United States or Canada, together with the reasons.

**(2)** The Secretary of Transportation shall include the results of the examination under paragraph (1) of this subsection in each report submitted under subsection (a) of this section more than 180 days after an exemption has been granted under section 32904(b)(6) of this title, or submit the results of the examination directly to Congress before the report is submitted when circumstances warrant.

**§ 32917. Standards for executive agency automobiles**

**(a) Definition.**--In this section, "executive agency" has the same meaning given that term in section 105 of title 5.

**(b) Fleet average fuel economy.--(1)** The President shall prescribe regulations that require passenger automobiles leased for at least 60 consecutive days or bought by executive agencies in a fiscal year to achieve a fleet average fuel economy (determined under paragraph (2) of this subsection) for that year of at least the greater of--

(A) 18 miles a gallon; or

(B) the applicable average fuel economy standard under section 32902(b) or (c) of this title for the model year that includes January 1 of that fiscal year.

**(2)** Fleet average fuel economy is--

(A) the total number of passenger automobiles leased for at least 60 consecutive days or bought by executive agencies in a fiscal year (except automobiles designed for combat-related missions, law enforcement work, or emergency rescue work); divided by

(B) the sum of the fractions obtained by dividing the number of automobiles of each model leased or bought by the fuel economy of that model.

**§ 32918. Retrofit devices**

**(a) Definition.**--In this section, the term "retrofit device" means any component, equipment, or other device--

(1) that is designed to be installed in or on an automobile (as an addition to, as a replacement for, or through alteration or modification of, any original component, equipment, or other device); and

(2) that any manufacturer, dealer, or distributor of the device represents will provide higher fuel economy than would have resulted with the automobile as originally equipped,

as determined under regulations of the Administrator of the Environmental Protection Agency. The term also includes a fuel additive for use in an automobile.

**(b) Examination of fuel economy representations.**--The Federal Trade Commission shall establish a program for systematically examining fuel economy representations made with respect to retrofit devices. Whenever the Commission has reason to believe that any representation may be inaccurate, the Commission shall request the Administrator to evaluate, in accordance with subsection (c) of this section, the retrofit device with respect to which the representation was made.

**(c) Evaluation of retrofit devices.--(1)** On application of any manufacturer of a retrofit device (or prototype of a retrofit device), on request of the Commission under subsection (b) of this section, or on the motion of the Administrator, the Administrator shall evaluate, in accordance with regulations prescribed under subsection (e) of this section, any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations, if any, made with respect to the retrofit device are accurate.

**(2)** If under paragraph (1) of this subsection, the Administrator tests, or causes to be tested, any retrofit device on the application of a manufacturer of the device, the manufacturer shall supply, at the manufacturer's expense, one or more samples of the device to the Administrator and shall be liable for the costs of testing incurred by the Administrator. The procedures for testing retrofit devices so supplied may include a requirement for preliminary testing by a qualified independent testing laboratory, at the expense of the manufacturer of the device.

**(d) Results of tests and publication in Federal Register.--(1)** The Administrator shall publish in the Federal Register a summary of the results of all tests conducted under this section, together with the Administrator's conclusions as to--

(A) the effect of any retrofit device on fuel economy;

(B) the effect of the device on emissions of air pollutants; and

**(C)** any other information the Administrator determines to be relevant in evaluating the device.

**(2)** The summary and conclusions shall also be submitted to the Secretary of Transportation and the Commission.

**(e) Regulations establishing tests and procedures for evaluation of retrofit devices.**--The Administrator shall prescribe regulations establishing--

(1) testing and other procedures for evaluating the extent to which retrofit devices affect fuel economy and emissions of air pollutants; and

**(2)** criteria for evaluating the accuracy of fuel economy representations made with respect to retrofit

devices. **§ 32919. Preemption**

**(a) General.**--When an average fuel economy standard prescribed under this chapter is in effect, a State or a political subdivision of a State may not adopt or enforce a law or regulation related to fuel economy standards or average fuel economy standards for automobiles covered by an average fuel economy standard under this chapter.

**(b) Requirements must be identical.**--When a requirement under section 32908 of this title is in effect, a State or a political subdivision of a State may adopt or enforce a law or regulation on disclosure of fuel economy or fuel operating costs for an automobile covered by section 32908 only if the law or regulation is identical to that requirement.

**(c) State and political subdivision automobiles.**--A State or a political subdivision of a State may prescribe requirements for fuel economy for automobiles obtained for its own use.

TITLE 49, UNITED STATES CODE,

SUBTITLE VI. MOTOR VEHICLE AND DRIVER PROGRAMS

**PART C. INFORMATION, STANDARDS, AND REQUIREMENTS**

**CHAPTER 331. THEFT PREVENTION**

Sec.
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**§ 33101. Definitions**

In this chapter--

**(1)** "chop shop" means a building, lot, facility, or other structure or premise at which at least one person engages in receiving, concealing, destroying, disassembling, dismantling, reassembling, or storing a passenger motor vehicle or passenger motor vehicle part that has been unlawfully obtained--

(A) to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity of the vehicle or part, including the vehicle identification number or a derivative of that number; and

(B) to distribute, sell, or dispose of the vehicle or part in interstate or foreign commerce.

**(2)** "covered major part" means a major part selected under section 33104 of this title for coverage by the vehicle theft prevention standard prescribed under section 33102 or 33103 of this title.

(3) "existing line" means a line introduced into commerce before January 1, 1990.

(4) "first purchaser" means the person making the first purchase other than for resale.

(5) "line" means a name that a manufacturer of motor vehicles applies to a group of motor vehicle models of the same make that have the same body or chassis, or otherwise are similar in construction or design.

(6) "major part" means--

(A) the engine;

(B) the transmission;

(C) each door to the passenger compartment;

(D) the hood;

(E) the grille;

(F) each bumper;

(G) each front fender;

(H) the deck lid, tailgate, or hatchback;

**(I)** each rear quarter panel;

**(I)** the trunk floor pan;

(K) the frame or, for a unitized body, the supporting structure serving as the frame; and

(L) any other part of a passenger motor vehicle that the Secretary of Transportation by regulation specifies as comparable in design or function to any of the parts listed in subclauses (A)-(K) of this clause.

**(7)** "major replacement part" means a major part that is--

(A) an original major part in or on a completed motor vehicle and customized or modified after manufacture of the vehicle but before the time of its delivery to the first purchaser; or

(B) not installed in or on a motor vehicle at the time of its delivery to the first purchaser and the equitable or legal title to the vehicle has not been transferred to a first purchaser.

**(8)** "model year" has the same meaning given that term in section 3290 1(a) of this title.

(9) "new line" means a line introduced into commerce after December 31, 1989.

(10) "passenger motor vehicle" includes a multipurpose passenger vehicle or light duty truck when that vehicle or truck is rated at not more than 6,000 pounds gross vehicle weight.

**(11)** "vehicle theft prevention standard" means a minimum performance standard for identifying major parts of new motor vehicles and major replacement parts by inscribing or affixing numbers or symbols on those parts.

**§ 33102. Theft prevention standard for high theft lines**

**(a) General.--(1)** The Secretary of Transportation by regulation shall prescribe a vehicle theft prevention standard that conforms to the requirements of this chapter. The standard shall apply to--

(A) covered major parts that manufacturers install in passenger motor vehicles in lines designated under section 33104 of this title as high theft lines; and

(B) major replacement parts for the major parts described in clause (A) of this paragraph.

**(2)** The standard may apply only to--

(A)major parts that manufacturers install in passenger motor vehicles having a model year designation later than the calendar year in which the standard takes effect; and

(B) major replacement parts manufactured after the standard takes effect.

**(b) Standard requirements.**--The standard shall be practicable and provide relevant objective criteria.

**(c) Limitations on major part and replacement part standards.--(1)** For a major part installed by the manufacturer of the motor vehicle, the standard may not require a part to have more than one identification.

**(2)** For a major replacement part, the standard may not require--

(A) identification of a part not designed as a replacement for a major part required to be identified under the standard; or

(B) the inscribing or affixing of identification except a symbol identifying the manufacturer and a common symbol identifying the part as a major replacement part.

**(d) Records and reports.**--This chapter does not authorize the Secretary to require a person to keep records or make reports, except as provided in sections 33104(c), 33106(c), 33108(a), and 33112 of this title.

**§ 33103. Theft prevention standard for other lines**

**(a) General.**--Not later than October 25, 1994, the Secretary of Transportation shall prescribe a vehicle theft standard that conforms to the requirements of this chapter for covered major parts that manufacturers install in passenger motor vehicles (except light duty trucks) in not more than 50 percent of the lines not designated under section 33104 of this title as high theft lines.

**(b) Extension of application.--(1)** Not later than 3 years after the standard is prescribed under subsection (a) of this section and based on the finding of the Attorney General under subsection (c) of this section to apply the standard, the Secretary shall apply that standard to covered major parts and major replacement parts for covered parts that manufacturers install in the lines of passenger motor vehicles (except light duty trucks)--

(A) not designated under section 33104 of this title as high theft lines; and

(B) not covered by the standard prescribed under subsection (a) of this section.

**(2)** The Secretary shall include as part of the regulatory proceeding under this subsection the finding of, and the record developed by, the Attorney General under subsection (c) of this section.

**(c) Initial review of effectiveness.**--Before the Secretary begins a regulatory proceeding under subsection (b) of this section, the Attorney General shall make a finding that the Secretary shall apply the standard prescribed under subsection (a) of this section unless the Attorney General finds, based on information collected and analyzed under section 33112 of this title and other information the Attorney General develops after providing notice and an opportunity for a public hearing, that applying the standard prescribed in subsection (a) to the remaining lines of passenger motor vehicles (except light duty trucks) not covered by that standard would not substantially inhibit chop shop operations and motor vehicle thefts. The Attorney General also shall consider and include in the record additional costs, effectiveness, competition, and available alternative factors. The Attorney General shall submit to the Secretary the finding and record on which the finding is based.

**(d) Long range review of effectiveness.--(1)** Not later than December 31, 1999, the Attorney General shall

make separate findings, after notice and an opportunity for a public hearing, on the following:

(A) whether the application of the standard under subsection (a) or (b) of this subsection, or both, have been effective in substantially inhibiting the operation of chop shops and motor vehicle theft.

(B) whether the anti-theft devices for which the Secretary has granted exemptions under section 33106 of this title are an effective substitute for parts marking in substantially inhibiting motor vehicle theft.

(2)(A) In making the finding under paragraph (1)(A) of this subsection, the Attorney General shall--

(i) consider the additional cost, competition, and available alternatives;

(ii) base that finding on information collected and analyzed under section 33112 of this title;

(iii) consider the effectiveness, the extent of use, and the extent to which civil and criminal penalties under section 33115(b) of this title and section 2322 of title 18 on chop shops have been effective in substantially inhibiting operation of chop shops and motor vehicle theft;

(iv) base that finding on the 3-year and 5-year reports issued by the Secretary under section 33113 of this title; and

**(v)** base that finding on other information the Attorney General develops and includes in the public record.

**(B)** The Attorney General shall submit a finding under paragraph (1)(A) of this subsection promptly to the Secretary. If the Attorney General finds that the application of the standard under subsection (a) or (b) of this section, or both, has not been effective, the Secretary shall issue, not later than 180 days after receiving that finding, an order terminating the standard the Attorney General found was ineffective. The termination is effective for the model year beginning after the order is issued.

**(3)** In making a finding under paragraph (1)(B) of this subsection, the Secretary shall consider the additional cost, competition, and available alternatives. If the Attorney General finds that the anti-theft devices are an effective substitute, the Secretary shall continue to grant exemptions under section 33106 of this title for the model years after model year 2000 at one of the following levels that the Attorney General decides: at the level authorized before October 25, 1992, or at the level provided in section 33 106(b)(2)(C) of this title for model year 2000.

**(e) Effective date of standard.**--A standard prescribed under this section takes effect at least 6 months after the date the standard is prescribed, except that the Secretary may prescribe an earlier effective date if the Secretary--

(1) decides with good cause that the earlier date is in the public interest; and

(2) publishes the reasons for the decision.

**(f) Notification of Congress.**--The Secretary and the Attorney General shall inform the appropriate legislative committees of Congress with jurisdiction over this part and section 2322 of title 18 of actions taken or planned under this section.

**§ 33104. Designation of high theft vehicle lines and parts**

**(a) Designation, nonapplication, selection, and procedures.--(1)** For purposes of the standard under section 33102 of this title, the following are high theft lines:

**(A)** a passenger motor vehicle line determined under subsection (b) of this section to have had a new passenger motor vehicle theft rate in the 2-year period covering calendar years 1990 and 1991 greater

than the median theft rate for all new passenger motor vehicle thefts in that 2-year period.

(B) a passenger motor vehicle line initially introduced into commerce in the United States after December 31, 1989, that is selected under paragraph (3) of this subsection as likely to have a theft rate greater than the median theft rate referred to in clause (A) of this paragraph.

(C) subject to paragraph (2) of this subsection, a passenger motor vehicle line having (for existing lines) or likely to have (for new lines) a theft rate below the median theft rate referred to in clause (A) of this paragraph, if the major parts in the vehicles are selected under paragraph (3) of this subsection as interchangeable with the majority of the major parts that are subject to the standard and are contained in the motor vehicles of a line described in clause (A) or (B) of this paragraph.

(2) The standard may not apply to any major part of a line described in paragraph (1)(C) of this subsection if all the passenger motor vehicles of lines that are, or are likely to be, below the median theft rate, and that contain parts interchangeable with the major parts of the line involved, account (for existing lines), or the Secretary of Transportation determines they are likely to account (for new lines), for more than 90 percent of the total annual production of all lines of that manufacturer containing those interchangeable parts.

(3) The lines, and the major parts of the passenger motor vehicles in those lines, that are to be subject to the standard may be selected by agreement between the manufacturer and the Secretary. If the manufacturer and the Secretary disagree on the selection, the Secretary shall select the lines and parts, after notice to the manufacturer and opportunity for written comment, and subject to the confidentiality requirements of this chapter.

(4) To the maximum extent practicable, the Secretary shall prescribe reasonable procedures designed to ensure that a selection under paragraph (3) of this subsection is made at least 6 months before the first applicable model year beginning after the selection.

(5) A manufacturer may not be required to comply with the standard under a selection under paragraph (3) of this subsection for a model year beginning earlier than 6 months after the date of the selection.

**(6)** A passenger motor vehicle line subject on October 25, 1992, to parts marking requirements under sections 602 and 603 of the Motor Vehicle Information and Cost Savings Act (Public Law 92-513, 86 Stat. 947), as added by section 101(a) of the Motor Vehicle Theft Law Enforcement Act of 1984 (Public Law 98-547, 98 Stat. 2756), continues to be subject to the requirements of this section and section 33102 of this title unless the line is exempted under section 33106 of this title.

**(b) Determining theft rate for passenger vehicles.--(1)** In this subsection, "new passenger motor vehicle thefts", when used in reference to a calendar year, means thefts in the United States in that year of passenger motor vehicles with the same model-year designation as that calendar year.

**(2)** Under subsection (a) of this section, the theft rate for passenger motor vehicles of a line shall be determined by a fraction--

(A) the numerator of which is the number of new passenger motor vehicle thefts for that line during the 2-year period referred to in subsection (a)(1)(A) of this section; and

(B) the denominator of which is the sum of the respective production volumes of all passenger motor vehicles of that line (as reported to the Administrator of the Environmental Protection Agency under chapter 329 of this title) that are of model years 1990 and 1991 and are distributed for sale in commerce in the United States.

**(3)** Under subsection (a) of this section, the median theft rate for all new passenger motor vehicle thefts during that 2-year period is the theft rate midway between the highest and the lowest theft rates determined under paragraph (2) of this subsection. If there is an even number of theft rates determined under paragraph (2), the median theft rate is the arithmetic average of the 2 adjoining theft rates midway between

the highest and the lowest of those theft rates.

(4) In consultation with the Director of the Federal Bureau of Investigation, the Secretary periodically shall obtain from the most reliable source accurate and timely theft and recovery information and publish the information for review and comment. To the greatest extent possible, the Secretary shall use theft information reported by United States Government, State, and local police. After publication and opportunity for comment, the Secretary shall use the theft information to determine the median theft rate under this subsection. The Secretary and the Director shall take any necessary actions to improve the accuracy, reliability, and timeliness of the information, including ensuring that vehicles represented as stolen are really stolen.

(5) The Secretary periodically (but not more often than once every 2 years) may redetermine and prescribe by regulation the median theft rate under this subsection.

**(c) Providing information.**--The Secretary by regulation shall require each manufacturer to provide information necessary to select under subsection (a)(3) of this section the high theft lines and the major parts to be subject to the standard.

**(d) Application.**--Except as provided in section 33106 of this title, the Secretary may not make the standard inapplicable to a line that has been subject to the standard.

**§ 33105. Cost limitations**

**(a) Maximum manufacturer costs.**--A standard under section 33102 or 33103 of this title may not impose--

(1) on a manufacturer of motor vehicles, compliance costs of more than $15 a motor vehicle; or

(2) on a manufacturer of major replacement parts, compliance costs for each part of more than the reasonable amount (but less than $15) that the Secretary of Transportation specifies in the standard.

**(b) Costs involved in engines and transmissions.**--For a manufacturer engaged in identifying engines or transmissions on October 25, 1984, in a way that substantially complies with the standard--

(1) the costs of identifying engines and transmissions may not be considered in calculating the manufacturer's costs under subsection (a) of this section; and

(2) the manufacturer may not be required under the standard to conform to any identification system for engines and transmissions that imposes greater costs on the manufacturer than are incurred under the identification system used by the manufacturer on October 25, 1984.

**(c) Cost adjustments.--(1)** In this subsection--

(A) "base period" means calendar year 1984.

(B) "price index" means the average over a calendar year of the Consumer Price Index (all items--United States city average) published monthly by the Secretary of Labor.

**(2)** At the beginning of each calendar year, as necessary data become available from the Bureau of Labor Statistics, the Secretary of Labor shall certify to the Secretary of Transportation and publish in the Federal Register the percentage difference between the price index for the 12 months before the beginning of the calendar year and the price index for the base period. For model years beginning in that calendar year, the amounts specified in subsection (a) of this section shall be adjusted by the percentage difference.

**§ 33106. Exemption for passenger motor vehicles equipped with anti-theft devices**

**(a) Definitions.**--In this section--

**(1)** "anti-theft device" means a device to reduce or deter theft that--

(A) is in addition to the theft-deterrent devices required by motor vehicle safety standard numbered 114 in section 571.114 of title 49, Code of Federal Regulations;

(B) the manufacturer believes will be effective in reducing or deterring theft of motor vehicles; and

**(C)** does not use a signaling device reserved by State law for use on police, emergency, or official vehicles, or on schoolbuses.

**(2)** "standard equipment" means equipment already installed in a motor vehicle when it is delivered from the manufacturer and not an accessory or other item that the first purchaser customarily has the option to have installed.

**(b) Granting exemptions and limitations.--(1)** A manufacturer may petition the Secretary of Transportation for an exemption from a requirement of a standard prescribed under section 33102 or 33103 of this title for a line of passenger motor vehicles equipped as standard equipment with an anti-theft device that the Secretary decides is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the standard.

**(2)** The Secretary may grant an exemption--

(A) for model year 1987, for not more than 2 lines of a manufacturer;

(B) for each of the model years 1988-1996, for not more than 2 additional lines of a manufacturer;

(C) for each of the model years 1997-2000, for not more than one additional line of a manufacturer; and

(D) for each of the model years after model year 2000, for the number of lines that the Attorney General decides under section 33 103(d)(3) of this title.

**(3)** An additional exemption granted under paragraph (2)(B) or (C) of this subsection does not affect an exemption previously granted.

**(c) Petitioning procedure.**--A petition must be filed not later than 8 months before the start of production for the first model year covered by the petition. The petition must include--

(1) a detailed description of the device;

(2) the reasons for the manufacturer's conclusion that the device will be effective in reducing and deterring theft of motor vehicles; and

**(3)** additional information the Secretary reasonably may require to make the decision described in subsection (b)(1) of this section.

**(d) Decisions and approvals.**--The Secretary shall make a decision about a petition filed under this section not later than 120 days after the date the petition is filed. A decision approving a petition must be based on substantial evidence. The Secretary may approve a petition in whole or in part. If the Secretary does not make a decision within the 120-day period, the petition shall be deemed to be approved and the manufacturer shall be exempt from the standard for the line covered by the petition for the subsequent model year.

**(e) Rescissions.**--The Secretary may rescind an exemption if the Secretary decides that the anti-theft device has not been as effective in reducing and deterring motor vehicle theft as compliance with the standard. A

rescission may be effective only--

(1) for a model year after the model year in which the rescission occurs; and

**(2)** at least 6 months after the manufacturer receives written notice of the rescission from the Secretary.

**§ 33107. Voluntary vehicle identification standards**

**(a) Election to inscribe or affix identifying marks.**--The Secretary of Transportation by regulation may prescribe a vehicle theft prevention standard under which a person may elect to inscribe or affix an identifying number or symbol on major parts of a motor vehicle manufactured or owned by the person for purposes of section 511 of title 18 and related provisions. The standard may include provisions for registration of the identification with the Secretary or a person designated by the Secretary.

**(b) Standard requirements.**--The standard under this section shall be practicable and provide relevant objective criteria.

**(c) Voluntary compliance.**--Compliance with the standard under this section is voluntary. Failure to comply does not subject a person to a penalty or enforcement under this chapter.

**(d) Compliance with other standards.**--Compliance with the standard under this section does not relieve a manufacturer from a requirement of a standard prescribed under section 33102 or 33103 of this title.

**§ 33108. Monitoring compliance of manufacturers**

**(a) Records, reports, information, and inspection.**--To enable the Secretary of Transportation to decide whether a manufacturer of motor vehicles containing a part subject to a standard prescribed under section 33102 or 33103 of this title, or a manufacturer of major replacement parts subject to the standard, is complying with this chapter and the standard, the Secretary may require the manufacturer to--

(1) keep records;

(2) make reports;

(3) provide items and information; and

(4) allow an officer or employee designated by the Secretary to inspect the vehicles and parts and relevant records of the manufacturer.

**(b) Entry and inspection.**--To enforce this chapter, an officer or employee designated by the Secretary, on presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, may inspect a facility in which motor vehicles containing major parts subject to the standard, or major replacement parts subject to the standard, are manufactured, held for introduction into interstate commerce, or held for sale after introduction into interstate commerce. An inspection shall be conducted at a reasonable time, in a reasonable way, and with reasonable promptness.

**(c) Certification of compliance.--(1)** A manufacturer of a motor vehicle subject to the standard, and a manufacturer of a major replacement part subject to the standard, shall provide at the time of delivery of the vehicle or part a certification that the vehicle or part conforms to the applicable motor vehicle theft prevention standard. The certification shall accompany the vehicle or part until its delivery to the first purchaser. The Secretary by regulation may prescribe the type and form of the certification.

**(2)** This subsection does not apply to a motor vehicle or major replacement part that is--

**(A)** intended only for export;

(B) labeled only for export on the vehicle or replacement part and the outside of any container until exported; and

(C) e x p o r t e d . **(d) Notification of error.**--A manufacturer shall notify the

Secretary if the manufacturer discovers that--

(1) there is an error in the identification (required by the standard) applied to a major part installed by the manufacturer in a motor vehicle during its assembly, or to a major replacement part manufactured by the manufacturer; and

**(2)** the motor vehicle or major replacement part has entered interstate commerce. **§**

**33109. National Stolen Passenger Motor Vehicle Information System**

**(a) General requirements.--(1)** Not later than July 25, 1993, the Attorney General shall establish, and thereafter maintain, a National Stolen Passenger Motor Vehicle Information System containing the vehicle identification numbers of stolen passenger motor vehicles and stolen passenger motor vehicle parts. The System shall be located in the National Crime Information Center and shall include at least the following information on each passenger motor vehicle reported to a law enforcement authority as stolen and not recovered:

(A) the vehicle identification number.

(B) the make and model year.

(C) the date on which the vehicle was reported as stolen.

(D) the location of the law enforcement authority that received the report of the theft of the vehicle.

**(E)** the identification numbers of the vehicle parts (or derivatives of those numbers), at the time of the theft, if those numbers are different from the vehicle identification number of the vehicle.

**(2)** In establishing the System, the Attorney General shall consult with--

(A) State and local law enforcement authorities; and

(B) the National Crime Information Center Policy Advisory Board to ensure the security of the information in the System and that the System will not compromise the security of stolen passenger motor vehicle and passenger motor vehicle parts information in the System.

**(3)** If the Attorney General decides that the Center is not able to perform the functions of the System, the Attorney General shall make an agreement for the operation of the System separate from the Center.

**(4)** The Attorney General shall prescribe by regulation the effective date of the System.

**(b) Requests for information.--(1)** The Attorney General shall prescribe by regulation procedures under which an individual or entity intending to transfer a passenger motor vehicle or passenger motor vehicle part may obtain information on whether the vehicle or part is listed in the System as stolen.

**(2)** On request of an insurance carrier, a person lawfully selling or distributing passenger motor vehicle parts in interstate commerce, or an individual or enterprise engaged in the business of repairing passenger motor vehicles, the Attorney General (or the entity the Attorney General designates) immediately shall inform the insurance carrier, person, individual, or enterprise whether the System has a record of a vehicle or vehicle part with a particular vehicle identification number (or derivative of that number) being reported as stolen. The Attorney General may require appropriate verification to ensure that the request is legitimate

and will not compromise the security of the System.

**(c) Advisory committee.--(1)** Not later than December 24, 1992, the Attorney General shall establish in the Department of Justice an advisory committee. The Attorney General shall develop the System with the advice and recommendations of the committee.

(2)(A) The committee is composed of the following 10 members:

(i) the Attorney General.

(ii) the Secretary of Transportation.

(iii) one individual who is qualified to represent the interests of the law enforcement community at the State level.

(iv) one individual who is qualified to represent the interests of the law enforcement community at the local level.

(v) one individual who is qualified to represent the interests of the automotive recycling industry.

(vi) one individual who is qualified to represent the interests of the automotive repair industry.

(vii) one individual who is qualified to represent the interests of the automotive rebuilders industry.

(viii) one individual who is qualified to represent the interests of the automotive parts suppliers industry.

(ix) one individual who is qualified to represent the interests of the insurance industry.

(x) one individual who is qualified to represent the interests of consumers.

**(B)** The Attorney General shall appoint the individuals described in subparagraph (A)(iii)-(x) of this paragraph and shall serve as chairman of the committee.

**(3)** The committee shall make recommendations on developing and carrying out--

(A) the National Stolen Passenger Motor Vehicle Information System; and

(B) the verification system under section 33110 of this title.

**(4)** Not later than April 25, 1993, the committee shall submit to the Attorney General, the Secretary, and Congress a report including the recommendations of the committee.

**(d) Immunity.**--Any person performing any activity under this section or section 33110 or 33111 in good faith and with the reasonable belief that such activity was in accordance with such section shall be immune from any civil action respecting such activity which is seeking money damages or equitable relief in any court of the United States or a State.

**§ 33110. Verifications involving junk and salvage motor vehicles**

**(a) Definition.**--In this section, "vehicle identification number" means a unique identification number (or derivative of that number) assigned to a passenger motor vehicle by a manufacturer in compliance with applicable regulations.

**(b) General requirements.--(1)** If an insurance carrier selling comprehensive motor vehicle insurance coverage obtains possession of and transfers a junk motor vehicle or a salvage motor vehicle, the carrier shall--

(A) under procedures the Attorney General prescribes by regulation under section 33109 of this title in consultation with the Secretary of Transportation, verify whether the vehicle is reported as stolen; and

(B) provide the purchaser or transferee of the vehicle from the insurance carrier verification identifying the vehicle identification number and verifying that the vehicle has not been reported as stolen or, if reported as stolen, that the carrier has recovered the vehicle and has proper legal title to the vehicle.

(2)(A) This subsection does not prohibit an insurance carrier from transferring a motor vehicle if, within a reasonable period of time during normal business operations (as decided by the Attorney General under section 33109 of this title) using reasonable efforts, the carrier--

(i) has not been informed under the procedures prescribed in section 33109 of this title that the vehicle has not been reported as stolen; or

(ii) has not otherwise established whether the vehicle has been reported as stolen.

**(B)** When a carrier transfers a motor vehicle for which the carrier has not established whether the vehicle has been reported as stolen, the carrier shall provide written certification to the transferee that the carrier has not established whether the vehicle has been reported as stolen.

**(c) Regulations.**--In consultation with the Secretary, the Attorney General shall prescribe regulations necessary to ensure that verification performed and provided by an insurance carrier under subsection (b)(1)(B) of this section is uniform, effective, and resistant to fraudulent use.

**§ 33111. Verifications involving motor vehicle major parts**

**(a) General requirements.**--A person engaged in the business of salvaging, dismantling, recycling, or repairing passenger motor vehicles may not knowingly sell in commerce or transfer or install a major part marked with an identification number without--

(1) first establishing, through a procedure the Attorney General by regulation prescribes in consultation with the Secretary of Transportation under section 33109 of this title, that the major part has not been reported as stolen; and

(2) providing the purchaser or transferee with a verification--

(A) identifying the vehicle identification number (or derivative of that number) of that major part; and

(B) verifying that the major part has not been reported as stolen.

**(b) Nonapplication.--(1)** Subsection (a) of this section does not apply to a person that--

(A) is the manufacturer of the major part;

(B) has purchased the major part directly from the manufacturer; or

**(C)** has received a verification from an insurance carrier under section 33110 of this title that the motor vehicle from which the major part is derived has not been reported as stolen, or that the carrier has not established whether that vehicle has been stolen.

**(2)** A person described under paragraph (1)(C) of this subsection that subsequently transfers or sells in commerce the motor vehicle or a major part of the vehicle shall provide the verification received from the carrier to the person to whom the vehicle or part is transferred or sold.

**(c) Regulations.**--The Attorney General shall prescribe regulations to carry out this section. The

regulations shall include regulations prescribed in consultation with the Secretary that are necessary to ensure that a verification a person provides under subsection (a)(2) of this section is uniform, effective, and resistant to fraudulent use.

**§ 33112. Insurance reports and information**

**(a) Purposes.**--The purposes of this section are--

(1) to prevent or discourage the theft of motor vehicles, particularly those stolen for the removal of certain parts;

(2) to prevent or discourage the sale and distribution in interstate commerce of used parts that are removed from those vehicles; and

**(3)** to help reduce the cost to consumers of comprehensive insurance overage for motor vehicles.

**(b) Definitions.**--In this section--

(1) "insurer" includes a person (except a governmental authority) having a fleet of at least 20 motor vehicles that are used primarily for rental or lease and are not covered by a theft insurance policy issued by an insurer of passenger motor vehicles.

(2) "motor vehicle" includes a truck, a multipurpose passenger vehicle, and a motorcycle.

**(c) Annual information requirement.--(1)** An insurer providing comprehensive coverage for motor vehicles shall provide annually to the Secretary of Transportation information on--

(A) the thefts and recoveries (in any part) of motor vehicles;

(B) the number of vehicles that have been recovered intact;

(C) the rating rules and plans, such as loss information and rating characteristics, used by the insurer to establish premiums for comprehensive coverage, including the basis for the premiums, and premium penalties for motor vehicles considered by the insurer as more likely to be stolen;

(D) the actions taken by the insurer to reduce the premiums, including changing rate levels for comprehensive coverage because of a reduction in thefts of motor vehicles;

(E) the actions taken by the insurer to assist in deterring or reducing thefts of motor vehicles; and

(F) other information the Secretary requires to carry out this chapter and to make the report and findings required by this chapter.

**(2)** The information on thefts and recoveries shall include an explanation on how the information is obtained, the accuracy and timeliness of the information, and the use made of the information, including the extent and frequency of reporting the information to national, public, and private entities such as the Federal Bureau of Investigation and State and local police.

**(d) Reports on reduced claims payments.**--An insurer shall report promptly in writing to the Secretary if the insurer, in paying a claim under an adjustment or negotiation between the insurer and the insured for a stolen motor vehicle--

(1) reduces the payment to the insured by the amount of the value, salvage or otherwise, of a recovered part subject to a standard prescribed under section 33102 or 33103 of this title; and

(2) the reduction is not made at the express election of the insured.

**(e) General exemptions.**--The Secretary shall exempt from this section, for one or more years, an insurer that the Secretary decides should be exempted because--

(1) the cost of preparing and providing the information is excessive in relation to the size of the insurer's business; and

(2) the information from that insurer will not contribute significantly to carrying out this chapter.

**(f) Small insurer exemptions.--(1)** In this subsection, "small insurer" means an insurer whose premiums for motor vehicle insurance issued directly or through an affiliate, including a pooling arrangement established under State law or regulation for the issuance of motor vehicle insurance, account for--

(A) less than one percent of the total premiums for all forms of motor vehicle insurance issued by insurers in the United States; and

(B) less than 10 percent of the total premiums for all forms of motor vehicle insurance issued by insurers in any State.

(2) The Secretary shall exempt by regulation a small insurer from this section if the Secretary finds that the exemption will not significantly affect the validity or usefulness of the information collected and compiled under this section, nationally or State-by-State. However, the Secretary may not exempt an insurer under this paragraph that is considered an insurer only because of subsection (b)(1) of this section.

(3) Regulations under this subsection shall provide that eligibility as a small insurer shall be based on the most recent calendar year for which adequate information is available, and that, once attained, the eligibility shall continue without further demonstration of eligibility for one or more years, as the Secretary considers appropriate.

**(g) Prescribed form.**--Information required by this section shall be provided in the form the Secretary prescribes.

**(h) Periodic compilations.**--Subject to section 552 of title 5, the Secretary periodically shall compile and publish information obtained by the Secretary under this section, in a form that will be helpful to the public, the police, and Congress.

**(i) Consultation.**--In carrying out this section, the Secretary shall consult with public and private agencies and associations the Secretary considers appropriate.

**§ 33113. Theft reports**

**(a) Truck, multipurpose passenger vehicle, and motorcycle report.**--Not later than October 25, 1995, the Secretary of Transportation shall submit a report to Congress that includes--

(1) information on the number of trucks, multipurpose passenger vehicles, and motorcycles distributed for sale in interstate commerce that are stolen and recovered annually, compiled by model, make, and line;

(2) information on the extent to which trucks, multipurpose passenger vehicles, and motorcycles stolen annually are dismantled to recover parts or are exported;

(3) a description of the market for the stolen parts;

(4) information on the premiums charged by insurers of comprehensive coverage of trucks, multipurpose passenger vehicles, or motorcycles, including any increase in the premiums charged because any of those motor vehicles is a likely candidate for theft;

**(5)** an assessment of whether the identification of parts of trucks, multipurpose passenger vehicles, and motorcycles is likely--

(A) to decrease the theft rate of those motor vehicles;

(B) to increase the recovery rate of those motor vehicles;

(C) to decrease the trafficking in stolen parts of those motor vehicles;

(D) to stem the export and import of those stolen motor vehicles or parts; or

**(E)** to have benefits greater than the costs of the identification; and

**(6)** recommendations on whether, and to what extent, the identification of trucks, multipurpose passenger vehicles, and motorcycles should be required by law.

**(b) Motor vehicle report.**--Not later than October 25, 1997, the Secretary shall submit a report to Congress that includes--

**(1)** information on--

(A) the methods and procedures used by public and private entities to collect, compile, and disseminate information on the theft and recovery of motor vehicles, including classes of motor vehicles; and

(B) the reliability and timeliness of the information and how the information can be improved;

**(2)** information on the number of motor vehicles distributed for sale in interstate commerce that are stolen and recovered annually, compiled by class, model, make, and line;

(3) information on the extent to which motor vehicles stolen annually are dismantled to recover parts or are exported;

(4) a description of the market for the stolen parts;

**(5)** information on--

(A) the costs to manufacturers and purchasers of passenger motor vehicles of compliance with the standards prescribed under this chapter;

(B) the beneficial impacts of the standards and the monetary value of the impacts; and

**(C)** the extent to which the monetary value is greater than the costs;

**(6)** information on the experience of officials of the United States Government, States, and localities in--

(A) making arrests and successfully prosecuting persons for violating a law set forth in title II or III of the Motor Vehicle Theft Law Enforcement Act of 1984;

(B) preventing or reducing the number and rate of thefts of motor vehicles that are dismantled for parts subject to this chapter; and

**(C)** preventing or reducing the availability of used parts that are stolen from motor vehicles subject to this chapter;

**(7)** information on the premiums charged by insurers of comprehensive coverage of motor vehicles

subject to this chapter, including any increase in the premiums charged because a motor vehicle is a likely candidate for theft, and the extent to which the insurers have reduced for the benefit of consumers the premiums, or foregone premium increases, because of this chapter;

(8) information on the adequacy and effectiveness of laws of the United States and the States aimed at preventing the distribution and sale of used parts that have been removed from stolen motor vehicles and the adequacy of systems available to enforcement personnel for tracing parts to determine if they have been stolen from a motor vehicle;

(9) an assessment of whether the identification of parts of other classes of motor vehicles is likely--

(A) to decrease the theft rate of those vehicles;

(B) to increase the recovery rate of those vehicles;

(C) to decrease the trafficking in stolen parts of those vehicles;

(D) to stem the export and import of those stolen vehicles, parts, or components; or

**(E)** to have benefits greater than the costs of the identification; and

(10) other relevant and reliable information available to the Secretary about the impact, including the beneficial impact, of the laws set forth in titles II and III of the Motor Vehicle Theft Law Enforcement Act of 1984 on law enforcement, consumers, and manufacturers; and

(11) recommendations (including, as appropriate, legislative and administrative recommendations) for--

(A) continuing without change the standards prescribed under this chapter;

(B) amending this chapter to cover more or fewer lines of passenger motor vehicles;

(C) amending this chapter to cover other classes of motor vehicles; or

(D) ending the standards for all future motor vehicles.

**(c) Bases of reports.--(1)** The reports under subsections (a) and (b) of this section each shall be based on--

(A) information reported under this chapter by insurers of motor vehicles and manufacturers of motor vehicles and major replacement parts;

(B) information provided by the Federal Bureau of Investigation;

(C) experience obtained in carrying out this chapter;

(D) experience of the Government under the laws set forth in titles II and III of the Motor Vehicle Theft Law Enforcement Act of 1984; and

**(E)** other relevant and reliable information available to the Secretary.

(2) In preparing each report, the Secretary shall consult with the Attorney General and State and local law enforcement officials, as appropriate.

(3) The report under subsection (b) of this section shall--

**(A)** cover a period of at least 4 years after the standards required by this chapter are prescribed; and

**(B)** reflect any information, as appropriate, from the report under subsection (a) of this section, updated

from the date of the report.

**(4)** At least 90 days before submitting each report to Congress, the Secretary shall publish a proposed report for public review and an opportunity of at least 45 days for written comment. The Secretary shall consider those comments in preparing the report to be submitted and include a summary of the comments with the submitted report.

**§ 33114. Prohibited acts**

**(a) General.**--A person may not--

(1) manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, a motor vehicle or major replacement part subject to a standard prescribed under section 33102 or 33103 of this title, unless it conforms to the standard;

(2) fail to comply with a regulation prescribed by the Secretary of Transportation or Attorney General under this chapter;

(3) fail to keep specified records, refuse access to or copying of records, fail to make reports or provide items or information, or fail or refuse to allow entry or inspection, as required by this chapter;

(4) fail to provide the certification required by section 33 108(c) of this title, or provide a certification that the person knows, or in the exercise of reasonable care has reason to know, is false or misleading in a material respect; or

**(5)** knowingly--

(A) own, operate, maintain, or control a chop shop;

(B) conduct operations in a chop shop; or

**(C)** transport a passenger motor vehicle or passenger motor vehicle part to or from a chop shop.

**(b) Nonapplication.**--Subsection **(a)(1)** of this section does not apply to a person establishing that in the exercise of reasonable care the person did not have reason to know that the motor vehicle or major replacement part was not in conformity with the standard.

**§ 33115. Civil penalties and enforcement**

**(a) General penalty and civil actions to collect.--(1)** A person that violates section 331 14(a)(1)-(4) of this title is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. The failure of more than one part of a single motor vehicle to conform to an applicable standard under section 33102 or 33103 of this title is only a single violation. The maximum penalty under this subsection for a related series of violations is $250,000.

(2) The Secretary of Transportation imposes a civil penalty under this subsection. The Secretary may compromise the amount of a penalty.

(3) In determining the amount of a civil penalty or compromise under this subsection, the Secretary shall consider the size of the person's business and the gravity of the violation.

(4) The Attorney General shall bring a civil action in a United States district court to collect a civil penalty imposed under this subsection.

(5) The Government may deduct the amount of a civil penalty imposed or compromised under this

subsection from amounts it owes the person liable for the penalty.

**(b) Chop shop penalty and enforcement.--(1)** A person that violates section 331 14(a)(5) of this title is liable to the Government for a civil penalty of not more than $100,000 a day for each violation.

**(2)** As appropriate and in consultation with the Attorney General, the Secretary shall--

(A) bring a civil action for a temporary or permanent injunction to restrain a person violating section 331 14(a)(5) of this section;

(B) impose and recover the penalty described in paragraph (1) of this subsection; or

**(C)** take both the actions described in clauses (A) and (B) of this paragraph.

**(c) Civil actions to enforce.--(1)** The Attorney General may bring a civil action in a United States district court to enjoin a violation of this chapter or the sale, offer for sale, introduction or delivery for introduction in interstate commerce, or importation into the United States, of a passenger motor vehicle containing a major part, or of a major replacement part, that is subject to the standard and is determined before the sale of the vehicle or part to a first purchaser not to conform to the standard.

(2)(A) When practicable, the Secretary--

(i) shall notify a person against whom an action under this subsection is planned;

(ii) shall give the person an opportunity to present that person's views; and

**(iii)** except for a knowing and willful violation, shall give the person a reasonable opportunity to comply.

**(B)** The failure of the Secretary to comply with subparagraph (A) of this paragraph does not prevent a court from granting appropriate relief.

**(d) Jury trial demand.**--In a trial for criminal contempt for violating an injunction or restraining order issued under subsection (c) of this section, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

**(e) Venue.**--A civil action under subsection (a) or (c) of this section may be brought in the judicial district in which the violation occurred or the defendant resides, is found, or transacts business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpena for a witness in the action may be served in any judicial district.

**§ 33116. Confidentiality of information**

**(a) General.**--Information obtained by the Secretary of Transportation under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only--

(1) to another officer or employee of the United States Government for use in carrying out this chapter; or

(2) in a proceeding under this chapter (except a proceeding under section 331 04(a)(3)).

**(b) Withholding information from Congress.**--This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

**§ 33117. Judicial review**

A person that may be adversely affected by a regulation prescribed under this chapter may obtain judicial

review of the regulation under section 32909 of this title. A remedy under this section is in addition to any other remedies provided by law.

**§ 33118. Preemption of State and local law**

When a motor vehicle theft prevention standard prescribed under section 33102 or 33103 of this title is in effect, a State or political subdivision of a State may not have a different motor vehicle theft prevention standard for a motor vehicle or major replacement part.

**§ § 33119 to 40100. Reserved for future legislation**

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## RELATED UNCODIFIED PROVISIONS

**A.**

**UNCODIFIED PROVISION OF ENERGY POLICY ACT OF 2005**
**IMPACTING NHTSA**
**ENERGY POLICY ACT OF 2005**
**Public Law 109-58; Aug. 8, 2005**

### SEC. 771. AUTHORIZATION OF APPROPRIATIONS FOR IMPLEMENTATION AND ENFORCEMENT OF FUEL ECONOMY STANDARDS.

In addition to any other funds authorized by law, there are authorized to be appropriated to the National Highway Traffic Safety Administration to carry out its obligations with respect to average fuel economy standards $3,500,000 for each of the fiscal years 2006 through 2010.

**B.**

**UNCODIFIED PROVISION OF ENERGY POLICY ACT OF 2005**
**IMPACTING NHTSA**
**ENERGY POLICY ACT OF 2005**
**Public Law 109-58; Aug. 8, 2005**

### SEC. 773. STUDY OF FEASIBILITY AND EFFECTS OF REDUCING USE OF FUEL FOR AUTOMOBILES.

**(a) In General.--**Not later than 30 days after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall initiate a study of the feasibility and effects of reducing by model year 2014, by a significant percentage, the amount of fuel consumed by automobiles.

**(b) Subjects of Study.--**The study under this section shall include-

(1) examination of, and recommendation of alternatives to, the policy under current Federal law of establishing average fuel economy standards for automobiles and requiring each automobile manufacturer to comply with average fuel economy standards that apply to the automobiles it manufactures;

(2) examination of how automobile manufacturers could contribute toward achieving the reduction referred to in subsection (a);

(3) examination of the potential of fuel cell technology in motor vehicles in order to determine the extent to which such technology may contribute to achieving the reduction referred to in subsection (a); and

(4) examination of the effects of the reduction referred to in subsection (a) on--

(A) gasoline supplies;

(B) the automobile industry, including sales of automobiles manufactured in the United States;

(C) motor vehicle safety; and

(D) air quality.

**(c) Report.--**The Administrator shall submit to Congress a report on the findings, conclusion, and recommendations of the study under this section by not later than 1 year after the date of the enactment of this Act.

**C.**

## UNCODIFIED AUTOMOBILE INFORMATION DISCLOSURE PROVISION & NEW CAR ASSESSMENT PROGRAM (NCAP) AUTHORIZATION OF APPROPRIATIONS IN SAFETEA-LU (Aug. 10, 2005; P.L. 109-59)

**SEC. 10307. AMENDMENT OF AUTOMOBILE INFORMATION DISCLOSURE ACT.**

(**a) SAFETY LABELING REQUIREMENT.--**Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended--

(1) by striking "and" after the semicolon in subsection (e);

(2) by inserting "and" after the semicolon in subsection (f)(3);

(3) by striking "(3)." in subsection (f)(4) and inserting "(3);"; and

(4) by adding at the end the following:

"(g) if one or more safety ratings for such automobile have been assigned and formally published or released by the National Highway Traffic Safety Administration under the New Car Assessment Program, information about safety ratings that--

"(1) includes a graphic depiction of the number of stars, or other applicable rating, that corresponds to each such assigned safety rating displayed in a clearly differentiated fashion indicating the maximum possible safety rating;

"(2) refers to frontal impact crash tests, side impact crash tests, and rollover resistance tests (whether or not such automobile has been assigned a safety rating for such tests);

"(3) contains information describing the nature and meaning of the crash test data presented and a reference to additional vehicle safety resources, including http://www.safecar.gov; and

"(4) is presented in a legible, visible, and prominent fashion and covers at least--

"(A) 8 percent of the total area of the label; or

"(B) an area with a minimum length of 4 1/2 inches and a minimum height of 3 1/2 inches; and

"(h) if an automobile has not been tested by the National Highway Traffic Safety Administration under the New Car Assessment Program, or safety ratings for such automobile have not been assigned in one or more rating categories, a statement to that effect.".

**(b) REGULATIONS.--**The Secretary of Transportation shall issue regulations to ensure that the labeling requirements under subsections (g) and (h) of section 3 of the Automobile Information Disclosure Act, as added by subsection (a), are implemented by September 1, 2007.

**(c) AUTHORIZATION OF APPROPRIATIONS.--**There are authorized to be appropriated to the Secretary of Transportation, to accelerate the testing processes and increasing the number of vehicles tested under the New Car Assessment Program of the National Highway Traffic Safety Administration--

(1) $15,000,000 for fiscal year 2006;

(2) $8,134,065 for fiscal year 2007;

(3) $8,418,760 for fiscal year 2008;

(4) $8,713,410 for fiscal year 2009; and

(5) $9,018,385 for fiscal year 2010.

**D.**

**UNCODIFIED NEW CAR ASSESSMENT PROGRAM (NCAP) PROVISION IN SAFETEA-LU (Aug. 10, 2005; P.L. 109-59)**

**SEC. 10309. 15-PASSENGER VAN SAFETY.**

**(a) TESTING.--**

**(1) IN GENERAL.--**The Secretary of Transportation shall require the testing of 15-passenger vans as part of the rollover resistance program of the National Highway Traffic Safety Administration's new car assessment program.

**(2) 15-PASSENGER VAN DEFINED.--**In this subsection, the term "15-passenger van" means a vehicle that seats 10 to 14 passengers, not including the driver.

**E.**

**AUTOMOBILE INFORMATION DISCLOSURE ACT, AS AMENDED**

**TITLE 15, UNITED STATES CODE, CHAPTER 28. DISCLOSURE OF AUTOMOBILE INFORMATION**

**§ 1231. Definitions**

For purposes of this chapter--

(a) The term "manufacturer" shall mean any person engaged in the manufacturing or assembling of new automobiles, including any person importing new automobiles for resale and any person who acts for and is under the control of such manufacturer, assembler, or importer in connection with the distribution of new automobiles.

(b) The term "person" means an individual, partnership, corporation, business trust, or any organized group of persons.

(c) The term "automobile" includes any passenger car or station wagon.

(d) The term "new automobile" means an automobile the equitable or legal title to which has never been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.

**(e)** The term "dealer" shall mean any person resident or located in the United States or any Territory thereof or in the District of Columbia engaged in the sale or the distribution of new automobiles to the ultimate purchaser.

**(I)** The term "final assembly point" means--

(1) in the case of a new automobile manufactured or assembled in the United States, or in any Territory of the United States, the plant, factory, or other place at which a new automobile is produced or assembled by a manufacturer and from which such automobile is delivered to a dealer in such a condition that all component parts necessary to the mechanical operation of such automobile are included with such automobile, whether or not such component parts are permanently installed in or on such automobile; and

(2) in the case of a new automobile imported into the United States, the port of importation.

(g) The term "ultimate purchaser" means, with respect to any new automobile, the first person, other than a dealer purchasing in his capacity as a dealer, who in good faith purchases such new automobile for purposes other than resale.

(h) The term "commerce" shall mean commerce among the several States of the United States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or among the Territories or between any Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation. New automobiles delivered to, or for further delivery to, ultimate purchasers within the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, Virgin Islands, American Samoa, the Trust Territories of the Pacific, the Canal Zone, Wake Island, Midway Island, Kingman Reef, Johnson Island, or within any other place under the jurisdiction of the United States shall be deemed to have been distributed in commerce.

**§ 1232. Label and entry requirements**

Every manufacturer of new automobiles distributed in commerce shall, prior to the delivery of any new automobile to any dealer, or at or prior to the introduction date of new models delivered to a dealer prior to such introduction date, securely affix to the windshield, or side window of such automobile a label on which such manufacturer shall endorse clearly, distinctly and legibly true and correct entries disclosing the following information concerning such automobile--

(a) the make, model, and serial or identification number or numbers;

(b) the final assembly point;

(c) the name, and the location of the place of business, of the dealer to whom it is to be delivered;

(d) the name of the city or town at which it is to be delivered to such dealer;

**(e)** the method of transportation used in making delivery of such automobile, if driven or towed from final assembly point to place of delivery;

**(I)** the following information:

(1) the retail price of such automobile suggested by the manufacturer;

(2) the retail delivered price suggested by the manufacturer for each accessory or item of optional equipment, physically attached to such automobile at the time of its delivery to such dealer, which is not included within the price of such automobile as stated pursuant to paragraph (1);

(3) the amount charged, if any, to such dealer for the transportation of such automobile to the location at which it is delivered to such dealer; and

(4) the total of the amounts specified pursuant to paragraphs (1), (2), and (3);

**(g)** If one or more safety ratings for such automobile have been assigned and formally published or released

by the National highway traffic safety administration under the new car assessment program, information about safety ratings that

(1) includes a graphic depiction of the number of stars, or other applicable rating, that corresponds to each such assigned safety rating displayed in a clearly differentiated fashion indicating the maximum possible safety rating;

(2) refers to frontal impact crash tests, side impact crash tests, and rollover resistance tests (whether or not such automobile has been assigned a safety rating for such tests);

(3) contains information describing the nature and meaning of the crash test data presented and a reference to additional vehicle safety resources, including http://www.safecar.gov; and

(4) is presented in a legible, visible, and prominent fashion and covers at least--

(A) 8 percent of the total area of the label; or

(B) an area with a minimum length of 4 1/2 inches and a minimum height of 3 1/2 inches; and

**(h)** if an automobile has not been tested by the National Highway Traffic Safety Administration under the New Car Assessment Program, or safety ratings for such automobile have not been assigned in one or more rating categories, a statement to that effect.

**§ 1232a. Repealed. Pub.L. 92-178, Title IV, § 401(g)(7)(A), Dec. 10, 1971, 85 Stat. 534**

**§ 1233. Violations and penalties**

**(a) Failure to affix required label**

Any manufacturer of automobiles distributed in commerce who willfully fails to affix to any new automobile manufactured or imported by him the label required by section 1232 of this title shall be fined not more than $1,000. Such failure with respect to each automobile shall constitute a separate offense.

**(b) Failure to endorse required label**

Any manufacturer of automobiles distributed in commerce who willfully fails to endorse clearly, distinctly and legibly any label as required by section 1232 of this title, or who makes a false endorsement of any such label, shall be fined not more than $1,000. Such failure or false endorsement with respect to each automobile shall constitute a separate offense.

**(c) Removal, alteration, or illegibility of required label**

Any person who willfully removes, alters, or renders illegible any label affixed to a new automobile pursuant to section 1232 of this title, or any endorsement thereon, prior to the time that such automobile is delivered to the actual custody and possession of the ultimate purchaser of such new automobile, except where the manufacturer relabels the automobile in the event the same is rerouted, repurchased, or reacquired by the manufacturer of such automobile, shall be fined not more than $1,000, or imprisoned not more than one year, or both. Such removal, alteration, or rendering illegible with respect to each automobile shall constitute a separate offense.

**F. SEC. 106. CONTINUED APPLICABILITY OF EXISTING**

**STANDARDS.**

Nothing in this subtitle, or the amendments made by this subtitle, shall be construed to affect the application of section 32902 of title 49, United States Code, to passenger automobiles or non-passenger automobiles manufactured before model year 2011.

**G. SEC. 107. NATIONAL ACADEMY OF SCIENCES**

**STUDIES.**

**(a) In General**.-As soon as practicable after the date of enactment of this Act, the Secretary of Transportation shall execute an agreement with the National Academy of Sciences to develop a report evaluating vehicle fuel economy standards, including--

(1) an assessment of automotive technologies and costs to reflect developments since the Academy's 2002 report evaluating the corporate average fuel economy standards was conducted;

(2) an analysis of existing and potential technologies that may be used practically to improve automobile and medium-duty and heavy-duty truck fuel economy;

(3) an analysis of how such technologies may be practically integrated into the automotive and medium-duty and heavy-duty truck manufacturing process; and

(4) an assessment of how such technologies may be used to meet the new fuel economy standards under chapter 329 of title 49, United States Code, as amended by this subtitle.

**(b) Report.--**The Academy shall submit the report to the Secretary, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Energy and Commerce of the House of Representatives, with its findings and recommendations not later than 5 years after the date on which the Secretary executes the agreement with the Academy.

**(c) Quinquennial Updates.--**After submitting the initial report, the Academy shall update the report at 5 year intervals thereafter through 2025.

**H.**

**SEC. 108. NATIONAL ACADEMY OF SCIENCES STUDY OF MEDIUM-DUTY AND HEAVY-DUTY TRUCK FUEL ECONOMY.**

**(a) In General.--**As soon as practicable after the date of enactment of this Act, the Secretary of Transportation shall execute an agreement with the National Academy of Sciences to develop a report evaluating medium-duty and heavy-duty truck fuel economy standards, including--

(1) an assessment of technologies and costs to evaluate fuel economy for medium-duty and heavy-duty trucks;

(2) an analysis of existing and potential technologies that may be used practically to improve medium-duty and heavy-duty truck fuel economy;

**(3)** an analysis of how such technologies may be practically integrated into the medium-duty and heavy-duty truck manufacturing process;

(4) an assessment of how such technologies may be used to meet fuel economy standards to be prescribed under section 32902(k) of title 49, United States Code, as amended by this subtitle; and

(5) associated costs and other impacts on the operation of medium-duty and heavy-duty trucks, including congestion.

**(b) Report.--**The Academy shall submit the report to the Secretary, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Energy and Commerce of the House of Representatives, with its findings and recommendations not later than 1 year after the date on which the Secretary executes the agreement with the Academy.

**I.**

**SEC. 110. PERIODIC REVIEW OF ACCURACY OF FUEL ECONOMY LABELING PROCEDURES.**

Beginning in December, 2009, and not less often than every 5 years thereafter, the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Transportation, shall--

(1) reevaluate the fuel economy labeling procedures described in the final rule published in the Federal Register on December 27, 2006 (71 Fed. Reg. 77,872; 40 C.F.R. parts 86 and 600) to determine whether changes in the factors used to establish the labeling procedures warrant a revision of that process; and

(2) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that describes the results of the reevaluation process.

**J.**

**SEC. 113. EXEMPTION FROM SEPARATE CALCULATION REQUIREMENT.**

**(a) Repeal**.-Paragraphs (6), (7), and (8) of section 32904(b) of title 49, United States Code, are repealed.

**(b) Effect of Repeal on Existing Exemptions.--**Any exemption granted under section 32904(b)(6) of title 49, United States Code, prior to the date of the enactment of this Act shall remain in effect subject to its terms through model year 2013.

**(c) Accrual and Use of Credits.--**Any manufacturer holding an exemption under section 32904(b)(6) of title 49, United States Code, prior to the date of the enactment of this Act may accrue and use credits under sections 32903 and 32905 of such title beginning with model year 2011.

## ADDITIONAL MISCELLANEOUS PROVISIONS

### SUBTITLE B--IMPROVED VEHICLE TECHNOLOGY

**K.**

**SEC. 131. TRANSPORTATION ELECTRIFICATION.**

**(a) Definitions.--**In this section:

**(1) Administrator.--**The term "Administrator" means the Administrator of the Environmental Protection Agency.

**(2) Battery.--**The term "battery" means an electrochemical energy storage system powered directly by electrical current.

**(3) Electric Transportation Technology.--**The term "electric transportation technology" means--

(A) technology used in vehicles that use an electric motor for all or part of the motive power of the vehicles, including battery electric, hybrid electric, plug-in hybrid electric, fuel cell, and plug-in fuel cell vehicles, or rail transportation; or

(B) equipment relating to transportation or mobile sources of air pollution that use an electric motor to replace an internal combustion engine for all or part of the work of the equipment, including--

(i) corded electric equipment linked to transportation or mobile sources of air pollution; and

(ii) electrification technologies at airports, ports, truck stops, and material-handling facilities.

**(4) Nonroad Vehicle.--**The term "nonroad vehicle" means a vehicle--

**(A)** powered--

(i) by a nonroad engine, as that term is defined in section 216 of the Clean Air Act (42 U.S.C. 7550); or

(ii) fully or partially by an electric motor powered by a fuel cell, a battery, or an off-board source of electricity; and

**(B)** that is not a motor vehicle or a vehicle used solely for competition.

**(5) Plug-in Electric Drive Vehicle.--**The term "plug-in electric drive vehicle" means a vehicle that--

(A) draws motive power from a battery with a capacity of at least 4 kilowatt-hours;

(B) can be recharged from an external source of electricity for motive power; and

**(C)** is a light-, medium-, or heavy-duty motor vehicle or nonroad vehicle (as those terms are defined in section 216 of the Clean Air Act (42 U.S.C. 7550)).

**(6) Qualified Electric Transportation Project.--**The term "qualified electric transportation project" means an electric transportation technology project that would significantly reduce emissions of criteria pollutants, greenhouse gas emissions, and petroleum, including--

(A) shipside or shoreside electrification for vessels;

(B) truck-stop electrification;

(C) electric truck refrigeration units;

(D) battery-powered auxiliary power units for trucks;

**(E)** electric airport ground support equipment;

(F) electric material and cargo handling equipment;

(G) electric or dual-mode electric rail;

(H) any distribution upgrades needed to supply electricity to the project; and

(I) any ancillary infrastructure, including panel upgrades, battery chargers, in-situ transformers, and trenching.

**(b) Plug-in Electric Drive Vehicle Program.--**

**(1) Establishment.--**The Secretary shall establish a competitive program to provide grants on a cost-shared basis to State governments, local governments, metropolitan transportation authorities, air pollution control districts, private or nonprofit entities, or combinations of those governments, authorities, districts, and entities, to carry out one or more projects to encourage the use of plug-in electric drive vehicles or other emerging electric vehicle technologies, as determined by the Secretary.

**(2) Administration.--**The Secretary shall, in consultation with the Secretary of Transportation and the Administrator, establish requirements for applications for grants under this section, including reporting of data to be summarized for dissemination to grantees and the public, including safety, vehicle, and component performance, and vehicle and component life cycle costs.

**(3) Priority.--**In making awards under this subsection, the Secretary shall--

**(A)** give priority consideration to applications that--

(i) encourage early widespread use of vehicles described in paragraph (1); and

(ii) are likely to make a significant contribution to the advancement of the production of the vehicles in the United States; and

**(B)** ensure, to the maximum extent practicable, that the program established under this subsection includes a variety of applications, manufacturers, and end-uses.

**(4) Reporting.--**The Secretary shall require a grant recipient under this subsection to submit to the Secretary, on an annual basis, data relating to safety, vehicle performance, life cycle costs, and emissions of vehicles demonstrated under the grant, including emissions of greenhouse gases.

**(5) Cost Sharing.--**Section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352) shall apply to a grant made under this subsection.

**(6) Authorization of Appropriations.--**There is authorized to be appropriated to carry out this subsection $90,000,000 for each of fiscal years 2008 through 2012, of which not less than 1/3 of the total amount appropriated shall be available each fiscal year to make grants to local and municipal governments.

**(c) NEAR-TERM TRANSPORTATION SECTOR ELECTRIFICATION PROGRAM.--**

**(1) In General.--**Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Transportation and the Administrator, shall establish a program to provide grants for the conduct of qualified electric transportation projects.

**(2) Priority.--**In providing grants under this subsection, the Secretary shall give priority to large-scale projects and large-scale aggregators of projects.

**(3) Cost Sharing.--**Section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352) shall apply to a grant made under this subsection.

**(4) Authorization of Appropriations.--**There is authorized to be appropriated to carry out this subsection $95,000,000 for each of fiscal years 2008 through 2013.

**(d) EDUCATION PROGRAM.—**

**(1) In General.--**The Secretary shall develop a nationwide electric drive transportation technology education program under which the Secretary shall provide—

(A) teaching materials to secondary schools and high schools; and

(B) assistance for programs relating to electric drive system and component engineering to institutions of higher education.

**(2) Electric Vehicle Competition.--**The program established under paragraph (1) shall include a plug-in hybrid electric vehicle competition for institutions of higher education, which shall be known as the "Dr. Andrew Frank Plug-In Electric Vehicle Competition".

**(3) Engineers.--**In carrying out the program established under paragraph (1), the Secretary shall provide financial assistance to institutions of higher education to create new, or support existing, degree programs to ensure the availability of trained electrical and mechanical engineers with the skills necessary for the advancement of—

(A) plug-in electric drive vehicles; and

(B) other forms of electric drive transportation technology vehicles.

**(4) Authorization of Appropriations.--**There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

**L.**

**SEC. 225. STUDY OF OPTIMIZATION OF FLEXIBLE FUELED VEHICLES TO USE E-85 FUEL.**

**(a) In General.—**The Secretary, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall conduct a study of whether optimizing flexible fueled vehicles to operate using E-85 fuel would increase the fuel efficiency of flexible fueled vehicles.

**(b) Report.--**Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Science and Technology and the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Commerce, Science, and Transportation of the Senate, a report that describes the results of the study under this section, including any recommendations of the Secretary.

**M.**

**SEC. 227. STUDY OF OPTIMIZATION OF BIOGAS USED IN NATURAL GAS VEHICLES.**

**(a) In General.--**The Secretary, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Transportation, shall conduct a study of methods of increasing the fuel efficiency of vehicles using biogas by optimizing natural gas vehicle systems that can operate on biogas, including the advancement of vehicle fuel systems and the combination of hybrid-electric and plug-in

hybrid electric drive platforms with natural gas vehicle systems using biogas.

**(b) Report.--**Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Commerce, Science, and Transportation of the Senate, and to the Committee on Science and Technology and the Committee on Energy and Commerce of the House of Representatives, a report that describes the results of the study, including any recommendations of the Secretary.

**N. SEC. 242. RENEWABLE FUEL DISPENSER**

**REQUIREMENTS.**

**(a) Market Penetration Reports.--**The Secretary, in consultation with the Secretary of Transportation, shall determine and report to Congress annually on the market penetration for flexible-fuel vehicles in use within geographic regions to be established by the Secretary.

**O. SEC. 248. BIOFUELS DISTRIBUTION AND ADVANCED BIOFUELS**

**INFRASTRUCTURE.**

**(a) In General.--**The Secretary, in coordination with the Secretary of Transportation and in consultation with the Administrator of the Environmental Protection Agency, shall carry out a program of research, development, and demonstration relating to existing transportation fuel distribution infrastructure and new alternative distribution infrastructure.

**(b) Focus.--**The program described in subsection (a) shall focus on the physical and chemical properties of biofuels and efforts to prevent or mitigate against adverse impacts of those properties in the areas of—

(1) corrosion of metal, plastic, rubber, cork, fiberglass, glues, or any other material used in pipes and storage tanks;

(2) dissolving of storage tank sediments;

(3) clogging of filters;

(4) contamination from water or other adulterants or pollutants;

(5) poor flow properties related to low temperatures;

(6) oxidative and thermal instability in long-term storage and uses;

(7) microbial contamination;

(8) problems associated with electrical conductivity; and

**(9)** such other areas as the Secretary considers appropriate.

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