

# United States Senate

WASHINGTON, DC 20510

October 23, 2014

The Honorable Anthony Foxx  
Secretary  
U.S. Department of Transportation  
1200 New Jersey Ave, SE  
Washington, DC 20590

Dear Secretary Foxx:

We write to urge you to provide clear guidance regarding the National Highway Traffic Safety Administration's (NHTSA's) October 21<sup>st</sup> Consumer Advisory about potentially defective Takata airbags. Almost eight million vehicles across ten different manufacturers have been subjected to recalls or service campaigns due to airbag explosions during deployment that have caused metal shrapnel to harm or kill drivers or passengers.

We believe that NHTSA should immediately issue a nation-wide safety recall on all the affected cars, regardless of where the car is registered. In addition, your office should strongly encourage manufacturers to provide rental cars at no cost to consumers if their cars cannot be fixed immediately because of insufficient replacement parts.

We are sure you agree that the first priority for both NHTSA and the manufacturers of cars with defective Takata airbags must be to protect the safety of all drivers and their families. We have become increasingly troubled and alarmed by the confusing and conflicting advice being issued by NHTSA, and the glacial pace of the agency's response to this public safety threat. Whether a vehicle model qualifies for a recall or is simply part of a service campaign has differed inconsistently across manufacturers, geographic regions and the type of airbag in question. We have detailed these concerns in an October 15<sup>th</sup> letter to Acting Administrator Friedman, and we look forward to his response.

We are alarmed and astonished that NHTSA has endorsed a policy recently announced by Toyota and GM that dealers should disable passenger-side airbags and instruct against permitting passengers in the front seat if replacement parts for these airbags are unavailable. As a matter of policy, this step is extraordinarily troubling and potentially dangerous. As a matter of law, as you are aware, §30122(b) of the Motor Vehicle Safety Act (49 U.S.C.) prohibits a manufacturer from knowingly making a safety device inoperative unless the Secretary issues a specific exemption. We are unaware of an exemption from your office in the case of Takata airbags. We are also unaware of any risk assessment or other analysis conducted by NHTSA or automobile manufacturers showing that more lives would be saved than lost by disabling these air bags. Lastly, we are unaware of any information distinguishing the safety threats posed by the passenger-side airbags from the driver-side airbags. If the airbag is too dangerous for passengers, how can the very same airbag installed on the driver-side be sufficiently safe for drivers? If analyses that support this policy have been conducted, or your office has issued an exemption or

exemptions to Toyota or GM, please provide our offices with copies and any relevant additional materials.

We are also concerned by the absence of clear guidance from NHTSA on how and when to get vehicles fixed and what to do in the meantime. In its October 21<sup>st</sup> Consumer Advisory, NHTSA urges drivers of affected vehicles (most of which are limited to those that were purchased or registered in 'humid' States) to get their cars serviced immediately, but stopped short of issuing a nation-wide safety recall. The information available to us indicates no factual basis for distinguishing between states or regions of the country regarding the potential severe danger of this defect to motorists. All states experience seasons of heat and humidity. Many drivers from Connecticut, Massachusetts, and other northeastern states spend time in more humid southern states. Replacement parts are, "essential to personal safety," for all drivers whether they live in New England or Florida, and NHTSA should immediately issue a nation-wide recall that protects all drivers. Equally important, all drivers deserve access to loaners or rental cars at no cost to them while they await repairs to their cars that make them safe enough to drive again.

Thank you for your prompt consideration of this important matter. We look forward to your responses and guidance to the issues raised above. If you have questions or concerns, please have your staff contact Joel Kelsey (Senator Blumenthal, 224-2823) or Michal Freedhoff (Senator Markey, 224-2742).

Sincerely,



Richard Blumenthal  
United States Senator



Edward J. Markey  
United States Senator