

## Unprecedented Changes to U.S. Automotive Safety Standards May Occur This Summer in Response to Toyota Investigations

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Sweeping and unprecedented changes to federal automotive safety laws are on the fast track for passage in Washington. It is widely believed that the similar provisions of both the House (H.R. 5381) and Senate (S. 3302) versions of the Motor Vehicle Safety Act of 2010 will become law this summer.

The legislation is in response to the recent Toyota sudden unintended acceleration investigations, and Congress' belief that Toyota and NHTSA failed to timely address safety concerns in certain Toyota vehicles.

In addition to mandating seven new or updated safety standards geared toward minimizing sudden unintended acceleration events, the legislation gives new and very broad enforcement powers to NHTSA. Under the heading of "Transparency and Accountability," key provisions of the bills would require:

- Making TREAD Early Warning Data, recall information and other defect-related communications with NHTSA more publically accessible through a re-tooled NHTSA website. NHTSA's current TREAD data confidentiality rulings would be vacated and a new presumption in favor of public disclosure would be mandated.
- Promoting the public reporting of vehicle defects to NHTSA and creating a "hotline" for calls from the employees of manufacturers, dealers and repair facilities who wish to report defects confidentially.
- Requiring a U.S.-based "senior official" or "principal executive" of a manufacturer to verify the accuracy of their submissions to NHTSA, and providing stiff penalties for submitting false, misleading or incomplete submissions.

Other noteworthy provisions in the bills would:

- Provide NHTSA's Administrator with the authority to order the immediate recall of vehicles in the event of an "imminent hazard."
- Limit the ability of former NHTSA employees to work for the auto industry.
- Allow for judicial review following NHTSA's denial of a defect petition.
- Increase the maximum civil penalties to \$200 million.
- Effectively end federal tort law preemption for vehicle safety standards and vacate NHTSA preemption determinations made during the Bush Administration.

NHTSA's rulemaking phase will begin in earnest after the Act becomes law, with most of the provisions requiring a NHTSA Final Rule within two years. Miller Canfield will have a voice on behalf of our clients during the rulemaking phase through our participation in the Motor and Equipment Manufacturer's Association.