

United States Senate

WASHINGTON, DC 20510

November 12, 2015

The Honorable Mitch McConnell
Senate Majority Leader
The Capitol, S-230
Washington, D.C. 20510

The Honorable Harry Reid
Senate Minority Leader
The Capitol, S-221
Washington, D.C. 20510

Dear Leader McConnell and Leader Reid:

We write to express our concerns over troubling provisions that were considered or included by the House of Representatives during its action on the surface transportation bill. This long-term legislation could set federal transportation policy for the next six years. The final transportation bill should advance safety, not roll back important safety and consumer protection policies.

Rather than advancing important safety issues, proposals from the House could erode safety, short-change consumer privacy, undermine environmental and energy security measures, and erect roadblocks to holding industry accountable. Making the necessary investments in our nation's infrastructure – a goal we strongly support – should not come at the expense of weaker safety and consumer protections. For those reasons, we urge you to prevent any rollback of safety or consumer protections relative to the Senate-passed transportation bill in order to avoid any potential erosion of support for the final bill.

Problematic provisions considered during House action on the bill include:

- Lower funding levels for critical safety and infrastructure programs;
- Provisions that insulate companies from liability or limit discoverability and withhold information from victims of accidents across transportation modes, including hiding information that could help the public make more informed choices about safety – for example, through new FOIA exemptions;
- Provisions that provide blanket immunity from prosecution by the Federal Trade Commission (FTC) for committing unfair or deceptive acts as long as an auto company maintains a “privacy policy,” no matter how inadequate or undecipherable;
- Provisions that provide fuel economy or greenhouse gas emissions credits for the inclusion of V2V, crash avoidance and other safety technologies, eroding the oil savings and greenhouse gas emissions reductions these credits are intended to incentivize;
- Provisions that give automakers that submit and comply with their own secret cybersecurity “best practices” exemptions from civil penalties and FTC enforcement actions, but prevent an automaker's failure to submit such a plan from being used as evidence against them in a legal action;

- Provisions that waive environmental and safety requirements for small-volume automobile manufacturers;
- Provisions that prevent the National Highway Traffic Safety Administration (NHTSA) from bringing enforcement actions and prevent courts from considering non-compliance with voluntary guidelines issued by the Department of Transportation as evidence of liability, but allow industry to use its own compliance with those guidelines as exonerating evidence in the same court or NHTSA enforcement proceeding;
- Provisions that stifle or stop important safety regulations, including minimum insurance for truck drivers;
- Provisions that make exemptions or are giveaways to the trucking and auto industry, including requirements that could limit the publication of life-saving warnings, without completing proper study or including requirements to mitigate the safety impacts; and
- Provisions that hamper truck safety, including requiring younger truck drivers on our highways.

Some of these provisions were wisely not included in the bill passed by the House. Nonetheless, we remain concerned that these issues could inappropriately reemerge for consideration as both bodies continue to move forward toward a final agreement. We note that the inclusion in a conference report of any provision not contained in either the House or Senate text is a violation of Senate Rule XXVIII, and we ask that you follow the spirit of that rule in any final agreement. Furthermore, we urge you to press against House-passed provisions that would worsen safety relative to the Senate bill.

We know you share our concerns for the safety of our constituents, and we ask for your support to ensure that the issues listed above are not included in any final agreement as Congress works on a long-term surface transportation bill. We look forward to continuing to work together to pass a responsible bill with sufficient funding that provides states, municipalities and stakeholders with certainty so they can tackle long-term projects and rebuild our infrastructure. Together, we must resist efforts to use this important legislation as a vehicle for controversial provisions that undermine public health and safety.

Sincerely,

Edward J. Markey
United States Senator

Bill Nelson
United States Senator

Richard Blumenthal
United States Senator

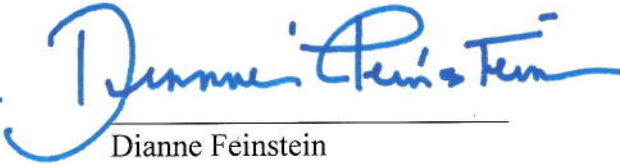
Patrick Leahy
United States Senator

Al Franken
United States Senator

Mazie K. Hirono
United States Senator



Bernard Sanders
United States Senator



Dianne Feinstein
United States Senator



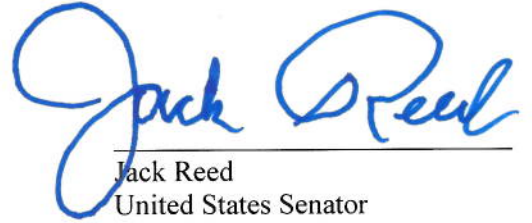
Sheldon Whitehouse
United States Senator



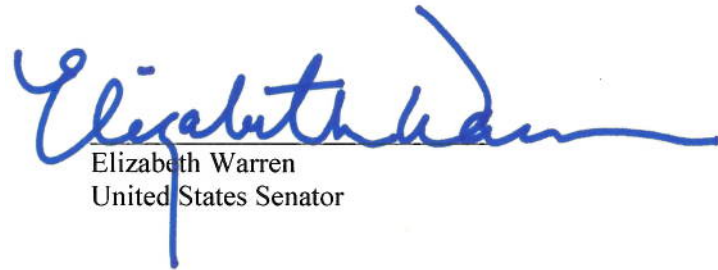
Maria Cantwell
United States Senator



Tom Udall
United States Senator



Jack Reed
United States Senator



Elizabeth Warren
United States Senator