

115TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To enhance the early warning reporting requirements for motor vehicle manufacturers, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. MARKEY introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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## A BILL

To enhance the early warning reporting requirements for motor vehicle manufacturers, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Early Warning Report-  
5 ing System Improvement Act of 2018”.

6 **SEC. 2. ADDITIONAL EARLY WARNING REPORTING RE-**  
7 **QUIREMENTS.**

8 (a) IN GENERAL.—Section 30166(m) of title 49,  
9 United States Code, is amended—

10 (1) in paragraph (3)—

1 (A) in subparagraph (C)—

2 (i) by striking “The manufacturer”  
3 and all that follows through “shall report”  
4 and inserting the following:

5 “(i) IN GENERAL.—The manufacturer  
6 of a motor vehicle or motor vehicle equip-  
7 ment, including the manufacturer of an  
8 autonomous vehicle or an autonomous ve-  
9 hicle driving system, shall report”; and

10 (ii) by adding at the end the fol-  
11 lowing:

12 “(ii) INCIDENTS WITH INJURIES OR  
13 FATALITIES.—If an incident described in  
14 clause (i) involves a serious injury or fatal-  
15 ity, the Secretary shall require the manu-  
16 facturer to submit, as part of the incident  
17 report under clause (i)—

18 “(I) each initial claim or notice  
19 document that notified the manufac-  
20 turer of the incident;

21 “(II) any police reports or other  
22 documents describing or recon-  
23 structing the incident;

1                   “(III) any amendments or sup-  
2                   plements to the documents described  
3                   in subclause (I), except—

4                               “(aa) medical documents  
5                               and bills; and

6                               “(bb) property damage in-  
7                               voices or estimates; and

8                   “(IV) the assessment of the man-  
9                   ufacturer of the circumstances that  
10                  led to the incident, including the anal-  
11                  ysis of the manufacturer with respect  
12                  to the claims or notices with respect  
13                  to allegations of a defect.

14                  “(iii) REPORTING REQUIREMENTS.—  
15                  Notwithstanding section 579.21 of title 49,  
16                  Code of Federal Regulations (or a suc-  
17                  cessor regulation), no report under this  
18                  subsection shall be limited by model year.”;  
19                  and

20                  (B) by adding at the end the following:

21                               “(D) SETTLEMENTS.—Notwithstanding  
22                  any order entered in a civil action restricting  
23                  the disclosure of information, a manufacturer of  
24                  a motor vehicle or motor vehicle equipment  
25                  shall comply with the requirements of this sub-

1 section and any regulation promulgated under  
2 this subsection.”;

3 (2) in paragraph (4), by striking subparagraph  
4 (C) and inserting the following:

5 “(C) DISCLOSURE.—

6 “(i) IN GENERAL.—The information  
7 provided to the Secretary pursuant to this  
8 subsection—

9 “(I) shall be disclosed publicly  
10 unless—

11 “(aa) exempt from disclo-  
12 sure under section 552(b) of title  
13 5, subject to clause (ii); or

14 “(bb) the information is sub-  
15 ject to an order entered in a civil  
16 action restricting the disclosure  
17 of information; and

18 “(II) shall be entered into a pub-  
19 lic early warning reporting database  
20 established by the Secretary in a man-  
21 ner that is searchable by manufac-  
22 turer name, vehicle or equipment  
23 make and model name, model year,  
24 and type of potential defect.

1                   “(ii) INAPPLICABILITY OF CONFIDEN-  
2                   TIALITY PROVISIONS.—In administering  
3                   clause (i)(I), the Secretary shall not con-  
4                   sider section 552(b)(4) of title 5 to prevent  
5                   the public disclosure of—

6                                 “(I) production information re-  
7                                 garding passenger motor vehicles;

8                                 “(II) information on incidents in-  
9                                 volving death or serious injury;

10                                “(III) numbers of property dam-  
11                               age claims; or

12                                “(IV) aggregated numbers of  
13                                consumer complaints.”; and

14                   (3) by adding at the end the following:

15                                “(6) USE OF EARLY WARNING REPORTS.—The  
16                   Secretary shall consider information gathered under  
17                   this section in proceedings described in sections  
18                   30118 and 30162.”.

19                   (b) REGULATIONS.—To promote the public avail-  
20                   ability of information provided to the Secretary under sub-  
21                   section (m) of section 30166 of title 49, United States  
22                   Code, and the utility of that information to inspection and  
23                   investigation activities conducted by the Secretary under  
24                   that section, not later than 2 years after the date of enact-  
25                   ment of this Act, the Secretary of Transportation shall

1 promulgate regulations to carry out this section and the  
2 amendments made by this section.

3 (c) NULLIFICATION OF EARLY WARNING REPORTING  
4 CLASS DETERMINATION REGULATIONS.—On the effective  
5 date of the regulations promulgated under subsection (b),  
6 the regulations with respect to early warning reporting  
7 class determinations contained in appendix C of part 512  
8 of title 49, Code of Federal Regulations (as in effect on  
9 that date), shall have no force or effect.

10 **SEC. 3. IMPROVED NATIONAL HIGHWAY TRAFFIC SAFETY**  
11 **ADMINISTRATION VEHICLE SAFETY DATA-**  
12 **BASES.**

13 (a) IN GENERAL.—Not later than 2 years after the  
14 date of enactment of this Act, and after consultation with  
15 frequent users of publicly available databases of the Sec-  
16 retary of Transportation (referred to in this section as the  
17 “Secretary”), the Secretary shall improve public accessi-  
18 bility to information on the publicly accessible vehicle safe-  
19 ty databases of the National Highway Traffic Safety Ad-  
20 ministration by revising the publicly accessible vehicle  
21 safety databases—

22 (1) to improve organization and functionality,  
23 including design features such as drop-down menus;

1           (2) to allow for data from all of the publicly ac-  
2           cessible vehicle safety databases to be searched, sort-  
3           ed, aggregated, and downloaded in a manner—

4                   (A) consistent with the public interest; and

5                   (B) that facilitates easy use by consumers;

6           (3) to provide greater consistency in presen-  
7           tation of vehicle safety issues;

8           (4) to improve searchability about specific vehi-  
9           cles and issues through standardization of commonly  
10          used search terms and the integration of databases  
11          to enable each of the databases to be simultaneously  
12          searched using the same keyword search function;  
13          and

14          (5) to ensure that each document, study, inves-  
15          tigation, inspection, incident report, and other mate-  
16          rials related to an incident that are created or ob-  
17          tained by the National Highway Traffic Safety Ad-  
18          ministration are made publicly available in a timely  
19          manner that is searchable in databases by—

20                   (A) manufacturer name, vehicle or equip-  
21                   ment make and model name, and model year;

22                   (B) type of potential defect;

23                   (C) number of injuries or fatalities; and

24                   (D) any other element that the Secretary  
25          determines to be in the public interest.

1 (b) INSPECTION AND INVESTIGATION INFORMA-  
2 TION.—The Secretary shall—

3 (1) provide public notice of each inspection or  
4 investigation activity conducted by the Secretary  
5 under section 30166 of title 49, United States Code;  
6 and

7 (2) make each notice described in paragraph  
8 (1), each written response by a manufacturer to  
9 such a notice, and each notice of any enforcement  
10 action or other action taken as a result of an inspec-  
11 tion or investigation described in that paragraph—

12 (A) available to consumers on the Internet  
13 not later than 5 days after the notice is issued;  
14 and

15 (B) searchable by manufacturer name, ve-  
16 hicle or equipment make and model name,  
17 model year, system or component, and the type  
18 of inspection or investigation being conducted.