



U.S. Department  
of Transportation

**National Highway  
Traffic Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

DEPARTMENT OF  
TRANSPORTATION

2019 JUN -3 P 2:55

DOCKET OPERATIONS  
MAY - 3 2019

Richard A. Keller, III  
27795 Oakachoy Loop  
Daphne, AL 36526

Dear Mr. Keller:

This responds to your inquiry on behalf of Bruno Independent Living Aids, Inc., concerning the rear backup camera requirement (S6.2) of Federal Motor Vehicle Safety Standard (FMVSS) No. 111, "Rear visibility." We apologize for the delay in responding. You ask several questions on whether installation of the "Bruno ASL-700 Chariot" and "ALS-250 Outsider" by vehicle owners would be permitted under the National Traffic and Motor Vehicle Safety Act. As explained below, our answer is yes.

In your letter, you state that the two products are "vehicle exterior-located platform lifts which can be temporarily attached to the vehicle." You state the products are sold to transport unoccupied personal mobility devices used by vehicle occupants with mobility impairments. You describe the Bruno ASL-700 Chariot as a "trailer" that conforms to all applicable FMVSS trailer requirements. You describe the Bruno ASL-250 Outsider as a "cargo carrier" that is supported entirely by a vehicle's trailer hitch, and that does not touch the ground. You state that both products are intended to be sold in the aftermarket, and that both would be attached to a vehicle's trailer hitch by the vehicle's owner.

You ask the following questions concerning the applicability of NHTSA's requirements to the ASL-700 Chariot and ALS-250 Outsider. We have restated your questions below, followed by our answers. Our answers are based on our understanding of your descriptions of the products.

- 1. Since the Bruno ASL-700 Chariot personal mobility device carrier is in compliance with all applicable FMVSS trailer regulations, and is a trailer, it is therefore not subject to the requirements of 49 CFR § 571.111, section S6.2 *Rear visibility*. As such, it is not required to provide a rear view [sic] camera. Is that interpretation correct?**

The answer is yes. As set forth in S6.2, the rear visibility requirements apply only to a "multipurpose passenger vehicle, low-speed vehicle, truck, bus, and school bus with a GVWR of 4,536 kg or less." If, as you say, the Bruno ASL-700 Chariot is a trailer, it is not subject to FMVSS No. 111.

- 2. Since the Bruno ASL-700 Chariot and Bruno ASL-250 Outsider are temporary equipment installed or removed, when needed, by the vehicle owner, the Agency Response to this issue in the Final Rule is that the rule (49 CFR § 571.111, section S6.2 *Rear visibility*) does not apply. Is that interpretation correct?**

Our answer is S6.2 does not apply.<sup>1</sup> As explained in our answer to question 1, if neither the Bruno ASL-700 Chariot nor the Bruno ASL-250 Outsider is a “multipurpose passenger vehicle, low-speed vehicle, truck, bus, [or a] school bus with a GVWR of 4,536 kg or less,” they are not subject to S6.2. This answer is the same as “the Agency Response...in the Final Rule” to which you refer.

(Please note that the installation of “temporary” products “by the vehicle owner” is not particularly germane to question 2 (which concerns the applicability of S6.2), but is germane to question 3. Stated differently, if an FMVSS applies to the Chariot or the ASL-250, the fact that the products are meant to be temporarily installed or removed by the vehicle owner would not change the applicability of that standard to the product.)

- 3. Since the Bruno ASL-700 Chariot and Bruno ASL-250 Outsider personal mobility device carriers are temporary equipment attached to the vehicle at the Class I, II, or III receiver hitch by the vehicle owner, and while they may when attached and loaded block the rearview camera, they are not making inoperative the OEM rearview camera under 49 USC § 30122 — *Making safety devices and elements inoperative*, as discussed in the *Public Law 110-189 — 110<sup>th</sup> Congress and NHTSA-2010-0162-0256 Final Rule*, since that prohibition is directed at a manufacturer, distributor, dealer, [rental company] or motor vehicle repair business modifying the vehicle. Is that interpretation correct?**

The Safety Act’s “make inoperative” prohibition (49 U.S.C. 30122) states:

A manufacturer, distributor, dealer, rental company, or motor vehicle repair business may not knowingly make inoperative any part of a device or element of design installed on or in a motor vehicle or motor vehicle equipment in compliance with an applicable [FMVSS] unless the manufacturer, distributor, dealer, rental company, or repair business reasonably believes the vehicle or equipment will not be used (except for testing or a similar purpose during maintenance or repair) when the device or element is inoperative.

Our answer is the vehicle owner installing the Bruno ASL-700 Chariot or Bruno ASL-250 Outsider on his or her own vehicle is not subject to the “make inoperative” prohibition.<sup>2</sup> We assume that the vehicle owner to whom you refer is not a manufacturer, distributor, dealer, rental company, or motor vehicle repair business. In addition, because States have the authority to regulate the use of vehicles, you should check with State officials to see if State law would allow motorists to block the view of the camera of the primary vehicle.

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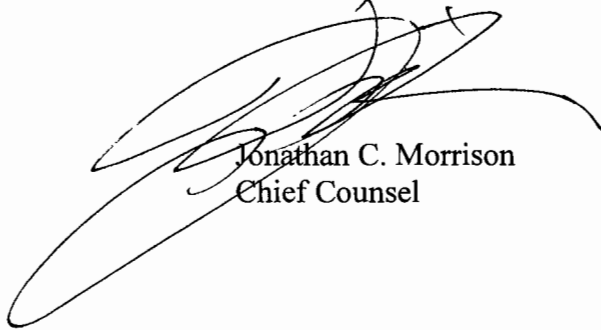
<sup>1</sup> We would like to clarify that if the Bruno ASL-700 Chariot is a trailer, as you say, it is a “motor vehicle” under our regulations, and not “temporary equipment.”

<sup>2</sup> Note also footnote 1, *supra*. In addition, please be aware that the make inoperative provision also applies to rental companies.

In closing, we note that you have petitioned NHTSA to amend 49 CFR Part 595 (“Make inoperative exemptions”), Subpart C (“Vehicle modifications to accommodate people with disabilities”) to include the FMVSS No. 111 backup camera requirements, and that NHTSA informed you that the agency has granted your petition in a letter sent on November 5, 2018. NHTSA is addressing your petition in the context of a rulemaking proceeding.

We hope this answers your questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jonathan C. Morrison', is written over the typed name and title. The signature is stylized and somewhat illegible due to overlapping loops and lines.

Jonathan C. Morrison  
Chief Counsel

Richard A. Keller, III  
27795 Oakachoy Loop  
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~~December 26, 2017~~ 01/22/2018

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U.S. Department of Transportation  
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FAX: (202)366-3820

RE: Interpretation of 49CFR §571.111 Standard No. 111; Rear visibility

Dear Chief Counsel,

Bruno Independent Living Aids, Inc. manufactures several products that allow a vehicle owner to transport unoccupied personal mobility devices such as wheelchairs, powered wheelchairs, and powered scooters for use by the vehicle driver or passengers with mobility impairments. Two of these are vehicle exterior-located platform lifts which can be temporarily attached to the vehicle by the owner, when needed, by means of a Class I, II or III trailer receiver hitch installed on the vehicle. Also, these products are installed on the vehicle trailer receiver hitch by the owner after the first retail sale of the vehicle.

One of these platform lifts is called the Bruno ASL-250 Outsider, and would be categorized as a "cargo carrier". It is fully supported by the trailer receiver hitch and not in contact with the ground except when loading or unloading the mobility device.

Another platform lift, called the Bruno ASL-700 Chariot, is categorized as a "trailer" and conforms to the applicable NHTSA vehicle regulations (manufacturer ID, VIN, certification label, lighting, and license visibility, etcetera) for trailers.

Questions have arisen regarding how these platform lifts are affected by the rearview camera requirements of 49CFR sec. 571.111, in section *S6.2 Rear visibility*. Since both personal mobility device carriers are attached to the vehicle by means of the Class I, II or III trailer receiver hitch, the view from the OEM rearview camera may be obstructed when it is installed by the vehicle owner to the vehicle, or when carrying the mobility device. In particular, will these products violate USC Title 49 Section 30122 *Making safety devices and elements inoperative?*

49CFR §571.111 cites the amendment at 79 FR 19243, Apr. 7, 2014 contained in *NHTSA-2010-0162-0256 Final Rule*. The amended FMVSS 111 is in section VI. Regulatory Text, of that Final Rule. Also, the Final Rule states that *Public Law 110-189 (K.T. Safety Act)* directs the Agency (NHTSA) "to expand the required field of view to enable the driver of a motor vehicle to detect areas behind the vehicle...". That is the legislative basis for the current version of FMVSS 111.

First, while it is clear in the published *NHTSA-2010-0162-0256 Final Rule* and the *Public Law 110-189 – 110<sup>th</sup> Congress* that FMVSS 111 excludes trailers, that is not actually in the text of 49CFR §571.111, except by omission.

**Public Law 110-189 – 110<sup>th</sup> Congress**

**SEC.2 RULEMAKING REGARDING CHILD SAFETY**

(e) DEFINITION OF MOTOR VEHICLE.—As used in this Act and for purposes of the motor vehicle safety standards described in subsections (a) and (b), the term “motor vehicle” has the meaning given such term in section 30102(a)(6) of title 49, United States Code, except that such term shall not include—

(1) a motorcycle or trailer (as such terms are defined in section 571.3 of title 49, Code of Federal Regulations);...

**NHTSA-2010-0162-0256 Final Rule**

**III. Final Rule and Response to Comments**

*b. Applicability*

The provisions of the K.T. Safety Act require a broad application of improved rear visibility countermeasures by defining the term “motor vehicle” as vehicles less than 10,000 pounds excluding only motorcycles and trailers.

After consideration of the comments on the ANPRM, NHTSA proposed in the NPRM to apply the rear visibility requirements to all vehicles with a GVWR of 10,000 pounds or less (excluding motorcycles and trailers).

*1. Remaining Issues*

In its comments, NTEA (The Association for the Work Truck Industry) requested... Further, NTEA requested confirmation that the rear visibility camera would not have to be mounted behind temporarily attached equipment such as a salt or sand spreader which is temporarily mounted to the trailer hitch of a pickup truck.

**Agency Response**

Finally, we also acknowledge NTEA’s concerns that temporary equipment installed by the vehicle owner, such as salt or sand spreaders, may be restricted by today’s final rule. However, we note that today’s rule does not apply to trailers and other temporary equipment that can be installed by the vehicle owner.

These documents (*NHTSA-2010-0162- 0256 Final Rule* and *Public Law 110-189-110<sup>th</sup> Congress*) indicate that FMVSS 111 specifically does not apply to trailers.

Also, in the Agency response to NTEA, the Agency (NHTSA) declares that the FMVSS 111 rearview camera “rule does not apply to temporary equipment that can be installed by the owner”.

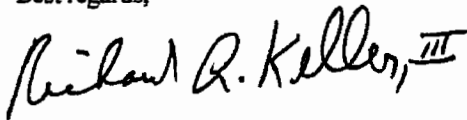
We understand from that Agency Response that neither the Bruno Chariot trailer nor the Bruno Outsider cargo carrier, attached to the vehicle by the Class I, II, or III receiver hitch would be subject to the FMVSS 111 rearview camera regulation, since both are temporary equipment that can be installed or removed by the vehicle owner, as needed.

**My questions for interpretation by NHTSA are:**

1. Since the Bruno ASL-700 Chariot personal mobility device carrier is in compliance with all applicable FMVSS trailer regulations, and is a trailer, it is therefore not subject to the requirements of 49CFR sec. 571.111, section *56.2 Rear visibility*. As such, it is not required to provide a rear view camera. Is that interpretation correct?
2. Since the Bruno ASL-700 Chariot and Bruno ASL-250 Outsider are temporary equipment installed or removed, when needed, by the vehicle owner, the Agency Response to this issue in the Final Rule is that the rule (*49CFR sec. 571.111, section 6.2 Rear visibility*) does not apply. Is that interpretation correct?
3. Since the Bruno ASL-700 Chariot and Bruno ASL-250 Outsider personal mobility device carriers are temporary equipment attached to the vehicle at the Class I, II, or III receiver hitch by the vehicle owner, and while they may when attached and loaded block the rearview camera, they are not making inoperative the OEM rearview camera under *49 USC Sec 30122 – Making safety devices and elements inoperative*, as discussed in the *Public Law 110-189 – 110<sup>th</sup> Congress and NHTSA -2010-0162-0256 Final Rule*, since that prohibition is directed at a manufacturer, distributor, dealer, or motor vehicle repair business modifying the vehicle. Is that interpretation correct?

These are a compilation of the typical questions we receive from dealers who are trying to comply with NHTSA regulations when they sell Bruno personal mobility device transporters. While they are very specific, they are intended to gain better understanding of a somewhat ambiguous portion of the FMVSS. Your prompt response will be greatly appreciated since the FMVSS 111 phase-in schedule is imminent.

Best regards,



Richard A. Keller, III

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