



January 26, 2021

RE: National Highway Traffic Safety Administration Supplemental Notice of Proposed Rule-Making 2016-0031-0003

To Whom It May Concern:

The National Disability Rights Network (NDRN) is the non-profit membership association of Protection and Advocacy (P&A) agencies that are located in all 50 States, the District of Columbia, Puerto Rico, and the United States Territories. In addition, there is a P&A affiliated with the Native American Consortium which includes the Hopi, Navajo and San Juan Southern Paiute Nations in the Four Corners region of the Southwest. P&A agencies are authorized under various federal statutes to provide legal representation and related advocacy services, and to investigate abuse and neglect of individuals with disabilities in a variety of settings. The P&A Network comprises the nation's largest provider of legally-based advocacy services for persons with disabilities, including advocacy on accessible transportation to ensure people with disabilities who want to live in the community can do so.

1. An exemption to the rear visibility requirement in the FMVSS no. 111

NDRN supports the exemption found in this SNPRM that provides for vehicles that include products that allow a vehicle to transport an unoccupied personal mobility device (PMD). PMD technology is essential to enable persons with physical disabilities to move freely through communities; to perform tasks such as going to work, engaging in community events, and visiting healthcare providers. If such an exemption was prohibited, such freedoms of this population would be taken away.

Furthermore, municipalities do not need to be concerned that this exemption will cause a widespread safety concern. The number of persons who use such PMD is minor; the exemption would not enable a large fraction of car users to overlook the regulation. Consequently, it can be inferred that the exemption would not create a significant traffic safety concern. And such accommodations for persons with disabilities are only temporary; the products that hold the PMD in place may not always be used. In other words, the backup camera view may be obstructed during one trip but not during another. The impact is fluid.

Additionally, it has already been explained that such exemptions are already permitted for other vehicles such as trucks with trailers. Seen in 49 C.F.R part 595, Subpart C. Arguably, the number of such trucks on the road likely outnumber the number of vehicles that are outfitted to accommodate persons with physical disabilities. It would be inappropriate to allow some vehicles to be exempt from the regulation, for good reason, but overlook the same exemption for another community that has an equally, if not more significant argument to allow for the exemption.

NDRN appreciates that the NHTSA is likely to adopt this SNPRM. It will secure the right for persons with disabilities to commute equally and safely, comparable to other drivers.

Transportation is an all too often seen barrier for persons with disabilities to engage in their communities and access the services they need. For instance, many persons with disabilities lack access to adequate public transportation or cannot afford an accessible vehicle. For those that have access to an accessible car, additional obstacles to the use of these cars must be mitigated. The government must assess all circumstances and pass regulations that appropriately eliminate or lesson these barriers.

2. Allow for the deinstallation of knee bolster air bags on a temporary basis in rental vehicles to allow for the installation of access to hand controls for persons with physical disabilities

Similar to the above mentioned exemption, NDRN supports an exemption to the FMVSS that will allow persons with physical disabilities to successfully use rental vehicles even if that requires the deinstallation of knee bolster air bags. Although persons with disabilities desire full safety with the vehicles they rent, access to such vehicles is also imperative. Such persons should have the right to determine if they want to rent a vehicle that lacks knee bolster air bags but that can still be utilized with hand controls. As previously explained, transportation options for persons with disabilities is routinely lacking. Actions must be taken to allow for every transportation opportunity to be utilized. Adults with disabilities should have the right to make such decisions independently for themselves.

The regulation summary states that one potential remedy is to purchase older cars without knee bolster air bags. This is a poor option for two reasons. First, older cars are likely to be unsafe for their own array of reasons. They have more miles on them and will come with a whole slew of mechanical problems. Furthermore, persons with disabilities should not be segregated to a specific line of vehicles. They should have equal access to newer cars. NDRN hopes that new cars will be designed to include the safety of both knee bolster air bags that also enable the installation of hand controls. But until such fleets are designed, the rights of persons with disabilities under Title III of the Americans with Disabilities Act (ADA) must not be overlooked.

In this circumstance, it is understandable that car rental companies want clarification on what law to uphold: the FMVSS or the ADA. NDRN would like to emphasize the importance of the ADA. Without the assurance of Title III of the ADA, persons with disabilities are barred from an entire category of services. Prohibiting the deinstallation of knee bolster air bags does present a possible safety risk. But in comparison, preventing an entire group from accessing rental cars disproportionately and negatively impacts drivers with physical disabilities. NDRN would once again like to emphasize the need for this exemption.

Again, thank you allowing us to comment on this SNPRM. Please contact Claire Stanley, Public Policy Analyst, at Claire.stanley@ndrn.org should you have any questions or concerns with these comments.

Sincerely,



Curtis L. Decker
Executive Director