

January 27, 2021

*via Email Submission*

U.S. Department of Transportation  
Docket Operations  
1200 New Jersey Avenue SE  
Washington, DC 20590

Re: Comments Concerning Make Inoperative Exemptions; Vehicle Modifications to Accommodate People with Disabilities Supplemental Notice of Proposed Rulemaking (SNPRM) Docket Number: NHTSA-2016-0031

The Disability Rights Education and Defense Fund (DREDF) is pleased to submit in response to the National Highway Traffic Safety Administration (NHTSA) SNPRM regarding Federal Motor Vehicle Safety Standards (FMVSS) make inoperative exemptions. DREDF thanks NHTSA for its work to date and planned research to ensure safety for disabled passengers, pedestrians and bicyclists.

DREDF is a leading national civil rights law and policy center directed by individuals with disabilities and parents who have children with disabilities. Our mission is to advance the civil and human rights of people with disabilities through legal advocacy, training, education, public policy and legislative development.

Nearly 1 in 5 people in the U.S. has a disability (more than 57 million). In 1990, Congress passed the bipartisan Americans with Disabilities Act (ADA). In enacting the ADA, Congress sought to “provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.” As a result, 99% of public buses are equipped with ramps, yet significant barriers to accessible, affordable transportation remain across modes, including access to personal vehicles.

Without affordable, accessible transportation people with disabilities are unable to travel to work, to school, to contribute to and participate in their communities, to support and spend time with family and friends, and live their lives to the fullest. According to a National Conference on State Legislatures report, in 2012, people with disabilities who were not working reported lack of transportation as one of their biggest barriers to employment. A National Organization on Disability survey found that income remains a barrier to transportation.

Purchasing a vehicle that requires aftermarket modification is cost-prohibitive for people with disabilities and their families on limited incomes.<sup>1</sup> Renting an accessible vehicle with hand controls may be the only option should a person with a disability need to travel for family, leisure or for an emergency, and may be a necessity for employment.

**Main Office:** 3075 Adeline Street, Suite 210 • Berkeley, CA 94703 • 510.644.2555

**Government Affairs:** Washington D.C. • 800.348.4232 • [www.dredf.org](http://www.dredf.org)

In addition, a vehicle equipped with hand controls or lift to transport an unoccupied personal mobility device (PMD) provides critical access to mobility, especially when alternative options may be inadequate, such as in rural areas, or when transit is inaccessible or deficient.

The FMVSS must take in to account the equipment installed to make a vehicle accessible for drivers and passengers with disabilities. We thank NHTSA for considering these needs and support the proposed exemption relating to rear visibility requirements in FMVSS 111, and the proposal to permit rental car companies to make inoperative knee bolster air bags on a temporary basis. However, we understand that retrofitted rearview cameras are available and encourage installation if possible. Also, we strongly discourage long-term reliance on exemptions for purpose built accessible autonomous and manually operated vehicles. NHTSA should prioritize research towards, and vehicle manufacturers should seek to truly innovate by designing, vehicles that can be both safe and accessible for all passengers.

Please find responses to the SNPRM and select questions posed below.

*Regarding the Make Inoperative Exemption in Subpart C for Portions of FMVSS No. 111, "Rear Visibility"*

We support the decision to provide an exemption for the temporary installation of a PMD transport device on a vehicle. PMDs such as wheelchairs and scooters provide life-changing freedom and mobility for people with physical disabilities.

The potential safety concerns that may arise via the blockage of the backup camera must be weighed against a disabled person's right to travel independently throughout the community. Additionally, such exemptions are already permitted for other vehicles such as trucks with trailers, as seen in 49 C.F.R part 595, Subpart C. 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.

We agree with and understand the narrowness of the exemption to apply only to the temporary installation of a PMD transport device on a vehicle, prohibiting entities from permanently disabling the backup camera system, or from making the backup camera system inoperative in contexts other than when attaching a PMD transport device to the vehicle. People with disabilities are both passengers and pedestrians and can be served well by backup cameras. Thank you for your thoughtful approach that provides a necessary, yet narrow exemption while still addressing the essential mobility needs of people with disabilities.

*Regarding the Exemption for Rental Companies and the Scope*

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 less safe. They may have more miles and a higher potential for mechanical problems. Furthermore, people with disabilities should not be segregated to a specific line of vehicles. They should have equal access to newer cars. While we believe that new cars should include knee bolster air bags that also enable the installation of hand controls, until such fleets are designed, the rights of people with disabilities under Title III of the Americans with Disabilities Act (ADA) must not be overlooked.

*2. Although Enterprise only asked NHTSA about the application of the make inoperative prohibition to disabling knee bolster air bags to accommodate installation of hand controls, should NHTSA provide a make inoperative exemption for other installations of adaptive equipment by rental companies?*

We encourage NHTSA staff to contact the National Mobility Equipment Dealers Association, the US Access Board to identify possible additional necessary exemptions.

*8. Should rental companies be required to retain records of vehicles modified pursuant to this “make inoperative” exemption. If so, what information and for how long?*

We support the proposal to require rental car and car sharing companies to retain records of vehicles modified for at least five years.

*11. To the extent car sharing companies (e.g., Zipcar) qualify as a “rental company” under 49 U.S.C. 30102, would all aspects of this proposal be reasonably applied to ride sharing companies, or would procedural requirements need to be different for them?*

We agree with NHTSA’s preliminary conclusion and believe the make exemptions and requirements for rental car companies should also apply to car sharing companies. Car sharing can provide lower cost on-demand mobility options. We encourage NHTSA to engage with these companies nationwide to educate them on modification options to allow for expansion of their customer base. In addition, accessibility and safety considerations should be applied as AVs are likely to be provided through car sharing and fleet models.

## Conclusion

Thank you, again, for the opportunity to provide comment. We acknowledge and are grateful for NHTSA’s continued support of necessary vehicle modifications, research on autonomous vehicles’ interaction with disabled road users and automated wheelchair securement systems, and the proposed accessibility reference hub.

Please contact Carol Tyson, Government Affairs Liaison, at (202) 878-9186 or [ctyson@dredf.org](mailto:ctyson@dredf.org) with any questions. DREDF looks forward to continuing to work with NHTSA and the broader AV stakeholder community to ensure access, safety, and equity are realized.

Sincerely,

A handwritten signature in blue ink that reads "Susan R. Henderson" followed by a horizontal line.

Susan Henderson  
Executive Director

---

<sup>i</sup> A recent Bureau of Transportation Statistics (BTS) study of adults with disabilities found that roughly half of respondents 18 to 64 reported living in a household with income under \$25,000.