

Congress of the United States
Washington, DC 20515

May 10, 2021

Mr. Steven Cliff
Deputy Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue, S.E.
Washington, DC 20590

Dear Deputy Administrator Cliff:

We write today concerning the anticipated CAFE civil penalties regulatory notice NHTSA is currently undertaking. Our bipartisan efforts share the Administration's goals of reducing emissions and improving fuel efficiency in the transportation sector. But as Representatives from districts and states with a strong automotive sector as well as co-chairs of the House Auto Caucus, we know first-hand how important the industry is to our communities and America's economy. Although supportive of action to increase penalties for future model years, we urge NHTSA to not impose increased CAFE civil penalties retroactively for model years already completed.

Our position is consistent with the underlying CAFE statute and previous actions of the Obama Administration, which considered this issue and its implications in December 2016. Then NHTSA proposed applying the increase penalty prospectively only. Your agency noted at the time that:

“Assuming that higher civil penalty rates are intended, in the particular context of CAFE, to provide greater incentives for manufacturers to comply with applicable standards, then raising penalty rates for model years already completed and thus unchangeable would be not only retroactive, but incapable of serving the purpose of causing greater compliance with CAFE standards. Based on the governing statutory framework and the specific CAFE regulatory scheme, NHTSA believes that Congress would not have intended retroactive application of an inflation adjustment to overcome this core substantive purpose and intent of EPCA. 81 Fed. Reg. at 95490”

The rationale NHTSA applied in 2016 is no less valid in 2021. The retroactive application of penalty increases to prior model years does not result in fuel economy or environmental benefits. Such increases are punitive in nature and would arrive at the worst possible time. These fines would layer on economic harm COVID-19 inflicted across the U.S. economy and while the auto sector grapples with semiconductor chip shortages, which already impacted thousands of auto workers in our states through forced production slowdowns and stoppages.

The industry has not asked for special assistance in response to COVID-19. Instead, auto manufacturers rose to the day's challenge and converted facilities to produce critical medical devices and PPE. Levying retroactive penalties will redirect resources the industry could instead use to enhance and support President Biden's efforts to support and grow our manufacturing base. A manufacturing sector that supports nearly 10 million U.S. jobs.

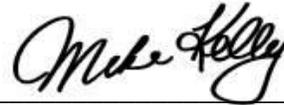
For these reasons, we strongly encourage NHTSA to apply— just as it did in 2016 – the increased penalty for future model years only, beginning no sooner than Model Year 2022.

We appreciate your time and attention to this matter and welcome the opportunity to engage further on this and other matters.

Sincerely,



Marcy Kaptur
Member of Congress
Co-Chair House Auto Caucus



Mike Kelly
Member of Congress
Co-Chair House Auto Caucus