

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON OVERSIGHT AND REFORM

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November 18, 2020

Mr. James C. Owens  
Acting Administrator  
National Highway Traffic Safety Administration  
1200 New Jersey Avenue, S.E.  
Washington, D.C. 20590

Dear Acting Administrator Owens:

The Subcommittee on Economic and Consumer Policy requests a briefing on proposed improvements to Federal Motor Vehicle Safety Standard (FMVSS) No. 213, which governs children's car seat and booster seat safety.

On March 18, 2020, the Subcommittee called on the National Highway Traffic Safety Administration (NHTSA) to: (1) raise the booster seat weight minimum recommendation from 30 to 40 pounds, (2) require that manufacturers place a clear and conspicuous labels on booster seats, and (3) finalize a federal side-impact test standard for children's car seats and booster seats.<sup>1</sup>

When NHTSA did not heed that call, on July 1, 2020, Congress passed the Krishnamoorthi amendment to H.R. 2, the Moving Forward Act, which encourages that young children remain in fully-harnessed car seats until they can safely move to a belt-positioned booster seat.<sup>2</sup> As NHTSA's own research notes, there is a 27% increased risk of moderate to fatal injuries for three-to-four-year-olds when restrained in a booster seat compared to a fully-harnessed seat.<sup>3</sup>

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<sup>1</sup> Letter from Chairman Raja Krishnamoorthi and Rep. Katie Porter, Subcommittee on Economic and Consumer Policy, Committee on Oversight and Reform, to Acting Administrator James Owens, National Highway Traffic Safety Administration (Mar. 18, 2020) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2020-03-18.RK%20and%20KP%20to%20Owens%20NHTSA%20re%20Rulemaking.pdf>).

<sup>2</sup> H. Amdt. 12 to Moving Forward Act, H.R. 2, 116th Cong. (2020).

<sup>3</sup> National Highway Traffic Safety Administration, *Booster Seat Effectiveness Estimates Based on CDS and State Data* (Jul. 2010) (online at [crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/81133](http://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/81133)).

Recently, NHTSA adopted a standard to recommend that children under 40 pounds should not be placed in a booster seat. However, we are deeply concerned that you did not incorporate two other needed changes included in the Krishnamoorthi amendment.<sup>4</sup>

First, NHTSA failed to require that manufacturers place a clear and conspicuous label on booster seats: “For use of children who are over 40 lbs and four years old or older.” This warning would help keep parents from prematurely transitioning their children from car seats with 5-point harnesses to booster seats before their child reaches 40 pounds. The Krishnamoorthi amendment proposed this labeling requirement because there is a scientific consensus that children’s car seats with 5-point harnesses are safer than booster seats, and children should not move to a booster seat until they are at least 40 pounds.<sup>5</sup> Instead of adopting a clear labeling requirement, NHTSA proposed to “lessen restrictions on the labeling requirements,” allowing manufacturers to present information “in their own words at locations that they deem most effective in instructing caregivers on the correct use of the CRS.”<sup>6</sup> This will lead to confusion.

Second, NHTSA failed to advance a side-impact testing rule for car seats and booster seats. Without that, parents don’t know if their children’s seats will protect them in an accident. Congress ordered NHTSA to create side-impact testing standards for children’s car seats and booster seats two decades ago.<sup>7</sup> NHTSA still has not complied. This is particularly concerning because the Subcommittee is aware that manufacturers continue to take advantage of this key regulatory gap and market unsafe booster seats. In the interest of children’s safety, the Subcommittee urges NHTSA to promulgate a final rule as quickly as practicable.

When NHTSA does finalize the proposed rule, it must correct the related issue the Subcommittee raised in its prior correspondence—the side-impact standard must include far-side collisions, not just near-side as in the proposed rule. As you know, ignoring far-side collisions creates serious risk for children. According to the data presented in the notice for NHTSA’s 2014 proposed rule, for children in children’s car seats and booster seats during a side-impact collision, more than 40% of fatalities and 30% of serious injuries occurred during far-side impacts.<sup>8</sup>

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<sup>4</sup> National Highway Traffic Safety Administration, *Federal Motor Vehicle Safety Standards; Child Restraint Systems, Incorporation by Reference* (Sept. 24, 2020), Docket No. NHTSA-2020-0093 (online at [www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/2127-al34\\_frontal\\_upgrade\\_nprm\\_fmvss\\_213.pdf](http://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/2127-al34_frontal_upgrade_nprm_fmvss_213.pdf)).

<sup>5</sup> American Academy of Pediatrics, *Policy Statement: Child Passenger Safety* (Nov. 2018) (online at [pediatrics.aappublications.org/content/pediatrics/142/5/e20182460.full.pdf](http://pediatrics.aappublications.org/content/pediatrics/142/5/e20182460.full.pdf)); *When Is the Right Time for a Booster Seat?*, Consumer Reports (Feb. 7, 2020) (online at [www.consumerreports.org/booster-seats/when-is-the-right-time-for-a-booster-seat/](http://www.consumerreports.org/booster-seats/when-is-the-right-time-for-a-booster-seat/)).

<sup>6</sup> National Highway Traffic Safety Administration, *Federal Motor Vehicle Safety Standards; Child Restraint Systems, Incorporation by Reference* (Sept. 24, 2020), Docket No. NHTSA-2020-0093 (online at [www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/2127-al34\\_frontal\\_upgrade\\_nprm\\_fmvss\\_213.pdf](http://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/2127-al34_frontal_upgrade_nprm_fmvss_213.pdf)).

<sup>7</sup> Transportation Recall Enhancement, Accountability, and Documentation Act, Pub. L. No. 106-414 (2000), 114 Stat. 1800.

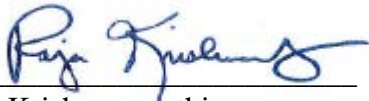
<sup>8</sup> National Highway Traffic Safety Administration, *Notice of Proposed Rulemaking: Federal Motor Vehicle Safety Standards; Child Restraint Systems, Child Restraint Systems—Side Impact Protection; Incorporation*

The Subcommittee requests that NHTSA provide a briefing to our staff to occur by December 2, 2020, on the following topics:

1. NHTSA's decision to loosen children's car seat and booster seat labeling requirements, rather than adopting a uniform labeling standard in its September 24, 2020, proposed rule;
2. The status of NHTSA's efforts to finalize a side-impact rule for children's car seats and booster seats, and a detailed explanation of the specific reasons for NHTSA's delay; and
3. Whether the side-impact rule for children's car seats and booster seats will include far-side collisions.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. If you have any questions regarding this request, please contact Subcommittee staff at (202) 225-5051.

Sincerely,



Raja Krishnamoorthi  
Chairman  
Subcommittee on Economic and Consumer Policy



Katie Porter  
Member of Congress

cc: The Honorable Michael Cloud, Ranking Member