

Issued in Washington, DC, on September 15, 2023, under authority delegated in 49 CFR part 1.97.

William S. Schoonover,

Associate Administrator of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2022–0097]

Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies a petition for rulemaking submitted by Mr. Eddie L. Fray on behalf of the Parent Advocacy Group on November 27, 2015. The petitioner requested that the Secretary of Transportation mandate installation of specific products and systems as well other complementary safety features intended to prevent pediatric heatstroke in vehicles. NHTSA is denying the petition because the Agency does not initiate rulemaking to require installation of specific products.

DATES: September 21, 2023.

ADDRESSES: National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, West Building, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Riddoch, Office of Crash Avoidance Standards, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, Telephone: (202) 366–2367, or Mr. Eli Wachtel, Telephone: 202–366–3065, Office of Chief Counsel. Address: National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

I. Background

The National Traffic and Motor Vehicle Safety Act (“Safety Act”) (49 U.S.C. 30101 *et seq.*) authorizes NHTSA to issue safety standards for new motor vehicles and new items of motor vehicle equipment. Each Federal Motor Vehicle Safety Standard (FMVSS) must be practicable, meet the need for motor vehicle safety, and be stated in objective

terms. NHTSA does not endorse any vehicles or items of equipment. Further, NHTSA does not approve or certify vehicles or equipment. Instead, the Safety Act establishes a “self-certification” framework under which each manufacturer is responsible for certifying that its products meet all applicable safety standards.

Petitions for rulemaking are governed by 49 CFR 552. Pursuant to Part 552, the agency conducts a technical review of the petition, which may consist of an analysis of the material submitted, together with information already in possession of the agency. In deciding whether to grant or deny a petition, the agency considers this technical review as well as appropriate factors, which include, among others, allocation of agency resources and agency priorities.

II. Petition

On November 27, 2015, Mr. Fray submitted a petition on behalf of the Parent Advocacy Group¹ asking that the Secretary of Transportation mandate lifesaving features and systems intended to reduce heatstroke deaths of children in vehicles.² The petitioner states that the mandate is necessary to save lives and requests that the Secretary issue the mandate within 30 days.³ A copy of the petition is available in the docket identified at the beginning of this document.

In support of his request, the petitioner cites heatstroke death statistics dating back to 1998 as well as information about specific heatstroke deaths of children in vehicles. The petitioner also includes information about actions NHTSA has taken regarding child heatstroke deaths in vehicles and why he believes those actions fall short of what is needed.⁴ The petition then describes a product called “the Guardian Cam,” a heatstroke prevention alarm system called “Accessory,” and a seat belt and pressure sensing alert system called “seat to seat.”⁵ In addition to descriptions of the concepts, the petitioner included exemplar sketches of what the concepts would look like

¹ The petition states that the Parent Advocacy Group is a group of members dedicated to ending heatstroke deaths of children in vehicles.

² Fray, Eddie L., Petition to the Secretary of Transportation to Mandate a Number of Higher Safety Standards to the Automobile Industry (“Fray Petition”), November 27, 2015, page 1.

³ *Id.*

⁴ Fray Petition at page 9.

⁵ Fray Petition, pages 9–12. The petitioner has filed copyrights for some of these concepts with the U.S. Copyright Office in 2014 and 2015. (Guardian Car Cam: TXu001931485; Accessory: TXu001999496; S2S Hot Car System: TXu001982523).

when installed in a vehicle. The petitioner also outlined how the concepts are designed to work in various scenarios to prevent child heatstroke in vehicles.

It is our understanding that the petitioner is requesting that the Secretary of Transportation mandate the installation of Guardian Cam and other complementary systems and features on new motor vehicles. The Secretary of Transportation has delegated responsibility for responding to this petition to NHTSA.

III. NHTSA’s Consideration of the Petition and Decision

NHTSA has conducted an analysis of Mr. Fray’s petition and, after careful consideration, has decided to deny his petition and will not initiate rulemaking proposing to require his concept countermeasures. NHTSA is denying Mr. Fray’s petition because it requests that NHTSA mandate specific products and accompanying features. Under the Safety Act, NHTSA is tasked with issuing motor vehicle safety standards that set minimum standards for motor vehicle or motor vehicle equipment performance. In doing so, NHTSA aims to establish standards that are performance-based and technology neutral. Additionally, as stated above, NHTSA does not endorse individual products. Accordingly, NHTSA finds that it would be inappropriate to grant a petition to initiate rulemaking to require specific products. Mr. Fray also asks the Secretary of Transportation to “develop, demonstrate, and evaluate” his proposed countermeasures. This request, however, does not fall within the scope of a petition for rulemaking under 49 CFR part 552.⁶

Although NHTSA is denying the petition, the agency shares Mr. Fray’s concerns about the risk of pediatric heatstroke in vehicles and is committed to taking appropriate steps to address this issue. To this end, NHTSA continues to issue public messaging campaigns with numerous safety partners and conduct research. Additionally, NHTSA has recently initiated a rulemaking to establish new requirements to address pediatric heatstroke in vehicles.⁷

⁶ Mr. Fray’s petition did not request that NHTSA initiate rulemaking to require vehicles to be able to detect and respond to the presence of unattended children in seats, nor did it provide supporting information demonstrating the practicability and safety benefits of such a requirement. Such a request would have fallen within the scope of a petition for rulemaking under 49 CFR part 552.

⁷ The RIN for this planned rulemaking is 2127–AM49. For more information see <https://www.reginfo.gov/public/do/>

Section 24222 of the Infrastructure, Investment and Jobs Act (commonly referred to as the Bipartisan Infrastructure Law or BIL) directs the Secretary of Transportation to issue a final rule requiring that passenger motor vehicles be equipped with a system to alert the operator to check rear-designated seating positions after the vehicle engine or motor is deactivated by the operator that shall include a distinct auditory and visual alert that may be combined with a haptic alert.⁸ The BIL further directs the Agency to conduct studies on the potential retrofitting of existing passenger motor

vehicles with rear-seat alert systems, as well as the potential benefits and economic burdens associated with those technologies. These technologies are intended to reduce the risk of children being left in rear-designated seating positions when the vehicle motor is deactivated.

NHTSA is also conducting research regarding the practicability of issuing performance standards that would require detection of unattended occupants in rear seats. Such requirements would provide safety benefits beyond the mandated minimum.

IV. Conclusion

NHTSA has reviewed the petition for rulemaking submitted by Mr. Eddie L.

Fray requesting that the Secretary of Transportation mandate installation of specific products intended to prevent the pediatric heatstroke in vehicles. NHTSA is denying the request because the agency does not initiate rulemakings to mandate specific products.

In accordance with 49 U.S.C. 30162 and 49 CFR part 552, the petition for rulemaking from Mr. Eddie Fray is denied.

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegations of authority at 49 CFR 1.95 and 501.8.

Issued in Washington, DC.

Milton E. Cooper,

Director of Rulemaking Operations.

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eAgendaViewRule?pubId=202304&RIN=2127-AM49.

⁸ Infrastructure Investment and Jobs Act, Public Law 117–58, 135 Stat. 429 § 24222 (2021).