

112TH CONGRESS  
1ST SESSION

# S. 1445

To designate certain conduct by car and truck rental companies relating to motor vehicle safety defects and recalls as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 28, 2011

Mr. SCHUMER (for himself, Mr. BLUMENTHAL, Mrs. BOXER, Mrs. FEINSTEIN, and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To designate certain conduct by car and truck rental companies relating to motor vehicle safety defects and recalls as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Raechel and Jacqueline  
5 Houck Safe Rental Car Act of 2011”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) COVERED VEHICLE.—The term “covered ve-  
4 hicle” means a motor vehicle that—

5 (A) is rated at 26,000 pounds gross vehicle  
6 weight or less;

7 (B) is rented or leased without a driver;  
8 and

9 (C) is part of a motor vehicle fleet of 5 or  
10 more motor vehicles that is used for rental or  
11 lease purposes by a rental company.

12 (2) DEFECT, MOTOR VEHICLE, MOTOR VEHICLE  
13 SAFETY, MOTOR VEHICLE SAFETY STANDARD.—The  
14 terms “defect”, “motor vehicle”, “motor vehicle  
15 safety”, and “motor vehicle safety standard” have  
16 the meanings given such terms in section 30102 of  
17 title 49, United States Code.

18 (3) PERSON.—The term “person” has the  
19 meaning given the term in section 1 of title 1,  
20 United States Code.

21 (4) RENTAL COMPANY.—The term “rental com-  
22 pany” means a person who—

23 (A) is engaged in the business of renting  
24 or leasing covered vehicles; and

1 (B) uses for rental or lease purposes a  
2 motor vehicle fleet of 5 or more covered vehi-  
3 cles.

4 **SEC. 3. PROHIBITION ON RENTAL, LEASE, AND SALE OF DE-**  
5 **FECTIVE CARS AND TRUCKS.**

6 (a) PROHIBITION.—

7 (1) IN GENERAL.—Except as provided in para-  
8 graph (2), it shall be unlawful for a rental company  
9 to rent, lease, or sell a covered vehicle on or after  
10 the earlier of the date of receipt by the rental com-  
11 pany of a notification ordered by the Secretary of  
12 Transportation under subsection (b)(2)(A) of section  
13 30118 of title 49, United States Code, or the date  
14 on which a manufacturer gives notice to owners,  
15 purchasers, and dealers pursuant to subsection (c)  
16 of such section that the covered vehicle contains a  
17 defect related to motor vehicle safety or does not  
18 comply with an applicable motor vehicle safety  
19 standard, unless the defect or noncompliance has  
20 been remedied prior to rental, lease, or sale.

21 (2) EXCEPTION.—Paragraph (1) shall not  
22 apply to a notification ordered by the Secretary  
23 under subsection (b)(2)(A) of such section if en-  
24 forcement of the order is set aside in a civil action  
25 to which section 30121(d) of such title applies.

1           (3) DATE OF RECEIPT OF A NOTIFICATION.—

2           For purposes of paragraph (1), a rental company  
3           shall be considered to have received a notification  
4           described in such paragraph 5 business days fol-  
5           lowing the date on which such notification was  
6           mailed.

7           (b) NOTIFICATION DURING RENTAL OR LEASE.—If,  
8           during a rental or lease period of a covered vehicle, a rent-  
9           al company receives a notification pursuant to subsection  
10          (b)(2)(A) or (c) of section 30118 of such title that the  
11          covered vehicle contains a defect related to motor vehicle  
12          safety or does not comply with an applicable motor vehicle  
13          safety standard, the rental company shall immediately—

14                 (1) contact the renter or lessee and any author-  
15                 ized driver for whom the rental company has imme-  
16                 diate contact information to inform such renter or  
17                 lessee and authorized driver of the defect or non-  
18                 compliance; and

19                 (2) offer to provide such renter, lessee, or au-  
20                 thorized driver a comparable alternative vehicle, at  
21                 no additional cost to the renter, lessee, or authorized  
22                 driver, until the defect or noncompliance has been  
23                 remedied.

1 (c) EFFECTIVE DATE.—This section shall take effect  
2 on the date that is 60 days after the date of the enactment  
3 of this Act.

4 **SEC. 4. ENFORCEMENT BY FEDERAL TRADE COMMISSION.**

5 (a) IN GENERAL.—Violation of section 3 of this Act  
6 shall be treated as a violation of a rule under section 18  
7 of the Federal Trade Commission Act (15 U.S.C. 57a) re-  
8 garding unfair or deceptive acts or practices. The Federal  
9 Trade Commission shall enforce this Act in the same man-  
10 ner, by the same means, and with the same jurisdiction,  
11 powers, and duties as though all applicable terms and pro-  
12 visions of the Federal Trade Commission Act (15 U.S.C.  
13 41 et seq.) were incorporated into and make a part of this  
14 Act.

15 (b) PENALTIES.—Any person who violates this Act  
16 or any regulation prescribed under this Act shall be sub-  
17 ject to the penalties and entitled to the privileges and im-  
18 munities provided in the Federal Trade Commission Act  
19 as though all applicable terms and provisions of the Fed-  
20 eral Trade Commission Act were incorporated in and  
21 made part of this Act.

22 (c) AUTHORITY PRESERVED.—Nothing in this sec-  
23 tion shall be construed to limit the authority of the Com-  
24 mission under any other provision of law.

1 **SEC. 5. ENFORCEMENT BY STATES.**

2 (a) RIGHT OF ACTION.—Except as provided in sub-  
3 section (e), the attorney general of a State, or other au-  
4 thorized State officer, alleging a violation of this Act or  
5 any regulation issued under this Act that affects or may  
6 affect such State or its residents, may bring an action on  
7 behalf of the residents of the State in any United States  
8 district court for the district in which the defendant is  
9 found, resides, or transacts business, or wherever venue  
10 is proper under section 1391 of title 28, United States  
11 Code, to obtain appropriate injunctive relief.

12 (b) RIGHTS OF FEDERAL TRADE COMMISSION.—

13 (1) NOTICE TO FEDERAL TRADE COMMIS-  
14 SION.—

15 (A) IN GENERAL.—Except as provided in  
16 subparagraph (C), the attorney general of a  
17 State, or other authorized State officer, shall  
18 notify the Federal Trade Commission in writing  
19 of any civil action under subsection (a), prior to  
20 initiating such civil action.

21 (B) CONTENTS.—The notice required by  
22 subparagraph (A) shall include a copy of the  
23 complaint to be filed to initiate such civil ac-  
24 tion.

25 (C) EXCEPTION.—If it is not feasible for  
26 the attorney general of a State, or other au-

1           thorized State officer, to provide the notice re-  
2           quired by subparagraph (A), the State shall  
3           provide notice immediately upon instituting a  
4           civil action under subsection (a).

5           (2) INTERVENTION BY FEDERAL TRADE COM-  
6           MISSION.—Upon receiving notice required by para-  
7           graph (1) with respect to a civil action, the Federal  
8           Trade Commission may—

9                   (A) intervene in such action; and

10                   (B) upon intervening—

11                           (i) be heard on all matters arising in  
12                           such civil action; and

13                           (ii) file petitions for appeal of a deci-  
14                           sion in such action.

15           (c) CONSTRUCTION.—Nothing in this section shall be  
16           construed—

17                   (1) to prevent the attorney general of a State,  
18                   or other authorized State officer, from exercising the  
19                   powers conferred on the attorney general, or other  
20                   authorized State officer, by the laws of such State;  
21                   or

22                   (2) to prohibit the attorney general of a State,  
23                   or other authorized State officer, from proceeding in  
24                   State or Federal court on the basis of an alleged vio-  
25                   lation of any civil or criminal statute of that State.

1 (d) LIMITATION.—No separate suit shall be brought  
2 under this section if, at the time the suit is brought, the  
3 same alleged violation is the subject of a pending action  
4 by the Federal Trade Commission or the United States  
5 under this Act.

6 **SEC. 6. CONSTRUCTION.**

7 Nothing in this Act shall be construed to prohibit an  
8 individual from seeking any remedies available under any  
9 provision of Federal or State law.

10 **SEC. 7. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRA-**  
11 **TION REPORT ON SALES OF MOTOR VEHI-**  
12 **CLES TO RENTAL COMPANIES WITHOUT**  
13 **STANDARD SAFETY FEATURES.**

14 (a) IN GENERAL.—Not later than 180 days after the  
15 date of the enactment of this Act, the Administrator of  
16 the National Highway Traffic Safety Administration shall  
17 submit to Congress a report on all matters relating to the  
18 sales of motor vehicles to rental companies without safety  
19 features that are normally included in the sales of such  
20 motor vehicles to consumers.

21 (b) ELEMENTS.—The report required by subsection  
22 (a) shall include the following:

23 (1) A description of the buying practices of  
24 rental companies with respect to motor vehicles that  
25 do not include safety features that are normally in-



1       cluded in the sale of such motor vehicles to con-  
2       sumers.

3           (2) A description of the implications of such  
4       practices on the safety of consumers.

5           (3) The recommendations of the Administrator  
6       with respect to the regulatory and legislative actions  
7       that can be taken to protect consumers with respect  
8       to such practices.

9       **SEC. 8. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRA-**  
10                   **TION REPORT ON SALES OF MOTOR VEHI-**  
11                   **CLES BY RENTAL COMPANIES KNOWN TO IN-**  
12                   **CLUDE SAFETY DEFECTS BEFORE SUCH VE-**  
13                   **HICLES ARE RECALLED.**

14       (a) INITIAL REPORT.—

15           (1) IN GENERAL.—Not later than 180 days  
16       after the date of the enactment of this Act, the Ad-  
17       ministrator of the National Highway Traffic Safety  
18       Administration shall submit to Congress a report on  
19       sales of covered vehicles—

20           (A) by rental companies that are aware,  
21       including by notice posted on the Internet  
22       website of the Administration, such covered ve-  
23       hicles may contain a defect related to motor ve-  
24       hicle safety or may not be in compliance with  
25       an applicable motor vehicle safety standard; and

1 (B) during the period—

2 (i) beginning on the date on which  
3 such rental companies become aware that  
4 such vehicles may contain such defects or  
5 may not be in compliance as described in  
6 subparagraph (A); and

7 (ii) ending on the earlier of the date  
8 of receipt by the rental company of a noti-  
9 fication ordered by the Secretary of Trans-  
10 portation under subsection (b)(2)(A) of  
11 section 30118 of title 49, United States  
12 Code, and the date on which a manufac-  
13 turer gives notice to owners, purchasers,  
14 and dealers pursuant to subsection (c) of  
15 such section that such covered vehicles  
16 contain a defect related to motor vehicle  
17 safety or do not comply with an applicable  
18 motor vehicle safety standard.

19 (2) ELEMENTS.—The report required by para-  
20 graph (1) shall include the following:

21 (A) A description and analysis of the fre-  
22 quency of sales of covered vehicles described in  
23 such paragraph.

24 (B) A discussion of the effects of such  
25 sales on consumers.

1           (C) The recommendations of the Adminis-  
2           trator, if any, on legislative and administrative  
3           action that should be taken to address such  
4           sales or mitigate such effects.

5           (b) FOLLOW-UP REPORT.—

6           (1) IN GENERAL.—Not later than 1 year after  
7           the date on which the Administrator submits the re-  
8           port required by subsection (a)(1), the Adminis-  
9           trator shall submit to Congress a report on the sales  
10          of covered vehicles as described in such subsection  
11          during the period beginning on the date on which  
12          the Administrator submits the report required by  
13          such subsection and ending on the date on which the  
14          report is submitted under this paragraph.

15          (2) ELEMENTS.—The report required by para-  
16          graph (1) shall include the following:

17               (A) A description, analysis, discussion, and  
18               recommendations as described in subsection  
19               (a)(2) but with respect to the period described  
20               in paragraph (1) of this subsection.

21               (B) An identification and analysis of dif-  
22               ferences between the findings of the Adminis-  
23               trator with respect to the report required by  
24               subsection (a)(1) and the findings of the Ad-

1            administrator with respect to subparagraph (A) of  
2            this paragraph.

3            (C) A discussion of the effects of the provi-  
4            sions of this Act on the sales of covered vehicles  
5            as described in subsection (a)(1).

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