

112TH CONGRESS  
1ST SESSION

# S. 422

To improve consumer access to passenger vehicle loss data held by insurers,  
and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 1, 2011

Mr. ENSIGN 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 improve consumer access to passenger vehicle loss data  
held by insurers, 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 “Passenger Vehicle Loss  
5 Disclosure Act of 2011”.

6 **SEC. 2. DISCLOSURE OF TOTAL LOSS DATA.**

7 (a) IN GENERAL.—Section 32303 of title 49, United  
8 States Code, is amended by adding at the end the fol-  
9 lowing:

1       “(d) DISCLOSURE OF LOSS DATA FOR PASSENGER  
2 MOTOR VEHICLES.—

3               “(1) SPECIFIC TOTAL LOSS DATA TO BE DIS-  
4 CLOSED.—The Secretary of Transportation shall by  
5 regulation require all insurers and self-insurers of  
6 passenger motor vehicles to disclose to the public in  
7 a commercially reasonable, electronically accessible  
8 manner the following information for every pas-  
9 senger motor vehicle described in paragraph (3) that  
10 has been declared a total loss by such an insurer or  
11 determined to be a total loss by such a self-insurer:

12               “(A) The vehicle identification number of  
13 the vehicle.

14               “(B) The date of declaration or determina-  
15 tion of the total loss.

16               “(C) The odometer reading on the date of  
17 the declaration or determination of total loss.

18               “(D) A statement as to whether the pri-  
19 mary reason for the declaration or determina-  
20 tion of total loss is—

21                       “(i) flood or water damage;

22                       “(ii) collision or fire damage;

23                       “(iii) theft and recovery; or

24                       “(iv) some other reason.

1           “(E) A statement as to whether, as a re-  
2           sult of the incident that prompted the declara-  
3           tion or determination of total loss, 1 or more  
4           airbags were deployed.

5           “(2) TIME FOR DISCLOSURE.—The Secretary  
6           shall require the disclosure described in paragraph  
7           (1) to be made not later than—

8                   “(A) the date on which the insurer termi-  
9                   nates coverage on the vehicle due to the total  
10                  loss of the vehicle; or

11                  “(B) the date on which the self-insurer de-  
12                  termines the vehicle to be a total loss.

13           “(3) VEHICLES TO WHICH DISCLOSURE RE-  
14           QUIREMENT APPLIES.—

15                  “(A) INSURERS.—Paragraph (1) applies to  
16                  a declaration of total loss by an insurer for any  
17                  passenger motor vehicle with respect to which—

18                          “(i) the insurer obtains from an in-  
19                          sured pursuant to a settlement resulting in  
20                          the termination of the current coverage by  
21                          the insurer for that vehicle;

22                          “(ii) the insurer permits the insured  
23                          to retain pursuant to a settlement result-  
24                          ing in the termination of the current cov-  
25                          erage by the insurer for that vehicle; or

1           “(iii) the insurer terminates coverage  
2           following the theft of, damage to, or other  
3           circumstances that adversely affect the fair  
4           market value of that vehicle.

5           “(B) SELF-INSURERS.—Paragraph (1) ap-  
6           plies to a determination of total loss by a self-  
7           insurer for any passenger motor vehicle that the  
8           self-insurer determines has sustained sufficient  
9           damage to be a total loss.

10          “(4) APPLICATION WITH STATE LAWS.—The  
11          disclosure required by this subsection applies with-  
12          out regard to whether—

13               “(A) the insurer or self-insurer obtains a  
14               certificate of title for the passenger motor vehi-  
15               cle under State motor vehicle titling law;

16               “(B) the insurer or self-insurer obtains a  
17               branded certificate of title for a passenger  
18               motor vehicle under State motor vehicle titling  
19               law to connote the type of damage or condition  
20               conveyed by the disclosure of total loss data;

21               “(C) the insurer or self-insurer files any  
22               other notification with a State motor vehicle ti-  
23               tling agency with respect to the passenger  
24               motor vehicle; or

1           “(D) the insurer or self-insurer disposes of  
2           or receives proceeds from the disposition of a  
3           passenger motor vehicle upon termination of  
4           coverage following the theft of, damage to, or  
5           other circumstances that adversely affect the  
6           fair market value of that vehicle.

7           “(5) USE OF PRIVATE SECTOR RESOURCES.—

8           “(A) IN GENERAL.—The Secretary shall  
9           rely on the private sector to collect, aggregate,  
10          and disclose to the public the data required to  
11          be disclosed under this subsection.

12          “(B) LOOKUP IDENTIFIER.—The Sec-  
13          retary shall ensure that all total loss data dis-  
14          closed in accordance with subparagraph (A) is  
15          accessible by vehicle identification number.

16          “(6) LIABILITY PROTECTION FOR PUBLIC DIS-  
17          CLOSURE.—Any person performing any activity re-  
18          lated to the public disclosure of the data under this  
19          subsection in good faith and with the reasonable be-  
20          lief that such activity was in accordance with this  
21          subsection shall be immune from any civil action re-  
22          specting such activity seeking money damages or eq-  
23          uitable relief in any court of the United States or of  
24          a State.

25          “(7) DEFINITIONS.—In this subsection:

1           “(A) PASSENGER MOTOR VEHICLE.—The  
2           term ‘passenger motor vehicle’ means a motor  
3           vehicle with motive power designed for carrying  
4           10 or fewer persons, including multipurpose  
5           passenger vehicles, light trucks, and motor-  
6           cycles, but not including trailers.

7           “(B) SELF-INSURER.—The term ‘self-in-  
8           surer’ means a person that retains all or part  
9           of the risk of loss with respect to passenger  
10          motor vehicles it owns instead of using an in-  
11          surer.”.

12          (b) REGULATIONS.—Not later than 1 year after the  
13          date of the enactment of this Act, the Secretary of Trans-  
14          portation shall promulgate the regulations required by sec-  
15          tion 32303(d) of title 49, United States Code, as added  
16          by subsection (a).

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