



September 5, 2023

Docket Management Facility
U.S. Department of Transportation
1200 New Jersey Avenue S.E.
West Building Ground Floor, Room W12-140
Washington, D.C. 20590

Submitted via *www.regulations.gov*

**Comments of Consumer Reports to the
National Highway Traffic Safety Administration on the
Request for Comments: Heavy Vehicle Automatic Emergency Braking
Notice of Proposed Rulemaking
Docket No. NHTSA-2023-0023**

Consumer Reports (CR), the independent, nonprofit member organization,¹ welcomes the opportunity to comment on the notice of proposed rulemaking by the National Highway Traffic Safety Administration (NHTSA) regarding automatic emergency braking (AEB) systems on heavy vehicles.

Given the proven effectiveness of AEB and the clear need for the technology, CR supports NHTSA in implementing the strongest possible rule in an expeditious manner. As we noted in our recent comments to NHTSA on AEB systems for light vehicles,² we stand shoulder-to-shoulder with more than 24,000 individual consumers who signed a CR petition supporting NHTSA's plans to require AEB and PAEB in all new cars, SUVs, and trucks, and who urged the agency to finalize the strongest possible requirements without delay.³

The safety problem is clear. In its analysis using data from 2017-2019, NHTSA found heavy vehicles were involved in around 60,000 rear-end crashes annually in which the heavy

¹ Founded in 1936, Consumer Reports (CR) is an independent, nonprofit, and nonpartisan organization that works with consumers to create a fair and just marketplace. Known for its rigorous testing and ratings of products, CR advocates for laws and company practices that put consumers first. CR is dedicated to amplifying the voices of consumers to promote safety, digital rights, financial fairness, and sustainability. The organization surveys millions of Americans every year, reports extensively on the challenges and opportunities for today's consumers, and provides ad-free content and tools to 6 million members across the United States.

² CR, "Consumer Reports Submits Comments on Proposed NHTSA Automatic Emergency Braking Systems Rule" (Aug. 15, 2023) (online at: advocacy.consumerreports.org/research/consumer-reports-submits-comments-on-proposed-nhtsa-automatic-emergency-braking-systems-rule).

³ Please see Appendix A.

vehicle was the striking vehicle, which represented 11 percent of all crashes involving heavy vehicles. In addition to this analysis, we note that the safety risks have heightened in the years since this analysis was conducted. In 2021 alone, there was a 17 percent increase in fatalities in large truck crashes compared with 2020, according to an analysis by the Insurance Institute for Highway Safety (IIHS) of U.S. Department of Transportation data.⁴ There was also a 5% increase in injuries in this same timeframe, and 71% of those injured were occupants of other vehicles.⁵

While CR does not conduct testing of the heavy vehicles subject to this rule, our recommendation is for NHTSA to choose Alternative 2 instead of the primary agency proposal. NHTSA notes that this alternative would have the same annual cost, savings, net cost per fatal equivalent, and net benefits as the primary proposal, but would also have the potential to save more lives sooner, and that the reason it was not named the primary choice is to allow time for the Class 3–6 vehicle manufactures to optimize implementations of both ESC and AEB into their vehicles. However, ESC and AEB are not new technologies, and CR urges NHTSA to shorten the compliance timeline and speed up the safety benefits for consumers.

Pedestrian AEB (PAEB) is notably missing from this rule, and CR considers this safety technology vital to protect pedestrians, bicyclists, motorcyclists, wheelchair users, and other vulnerable road users (VRUs). According to the Governors Highway Safety Association, pedestrian deaths increased 77% between 2010 and 2021. In 2022, about 7,500 people were killed, making it the deadliest year for pedestrians since 1981.⁶ Bicyclist deaths have also been on the rise in recent years, with 966 killed in 2021 alone, according to NHTSA.⁷ In line with comments from the National Transportation Safety Board (NTSB), we urge NHTSA to expand the proposed testing conditions to additional scenarios, including varying vehicle angles and offsets, and protection for VRUs.⁸

Although CR thinks NHTSA can and should make the final rule stronger, there are several strengths of the current proposal that we would like to highlight:

- *Performance requirements at high and low speeds.* According to NHTSA’s analysis of 2017-2019 data, the speed of the striking vehicle is an important factor in the severity of the crash: while crashes where the striking vehicle was traveling over 55 miles per hour (mph) represented 17 percent of crashes, they accounted

⁴ IIHS, “Fatality Facts 2021 Large trucks” (May 2023) (online at: www.iihs.org/topics/fatality-statistics/detail/large-trucks).

⁵ National Safety Council, “Large Trucks” (2023) (online at: injuryfacts.nsc.org/motor-vehicle/road-users/large-trucks).

⁶ Governors Highway Safety Association, “Pedestrian Traffic Fatalities by State: 2022 Preliminary Data” (June 2023) (online at: www.ghsa.org/resources/Pedestrians23).

⁷ NHTSA, “Traffic Safety Facts 2020 Data – Bicyclists and Other Cyclists” (June 2022) (online at: crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813322); NHTSA, “Traffic Safety Facts – 2021 Data – Bicyclists and Other Cyclists” (June 2023) (online at: crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813484).

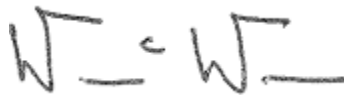
⁸ Comments of the National Transportation Safety Board to NHTSA on this notice (Aug. 28, 2023) (online at: www.regulations.gov/comment/NHTSA-2023-0023-0400).

for a staggering 89 percent of fatalities. Therefore, CR agrees with NHTSA that it is critical for AEB systems to function at high speeds in addition to lower speeds.

- *Amendment of FMVSS No. 136.* We support the proposal to amend FMVSS No. 136 to require nearly all heavy vehicles to have an electronic stability control (ESC) system that meets all requirements outlined in that standard. NHTSA has required ESC on all passenger vehicles since 2012, and we agree that this technology should be standard on heavy vehicles as well. For years, CR’s automotive experts highly recommended ESC, including on SUVs and school buses.⁹
- *The agency’s primary regulatory proposal is highly cost-effective, and Alternative 2 would accelerate safety benefits.* At the 3 percent discount rate, NHTSA estimates that the agency’s primary regulatory proposal would actually save money overall, with the monetized benefits of reduced traffic congestion and property damage outweighing compliance costs. At the 7 percent discount rate, NHTSA estimates that the net cost per life saved would be \$500,000 – a small fraction of the \$11.6 million value of a statistical life. Alternative 2, our preferred option, would potentially save even more lives sooner, and it would do so without additional costs. Given the clear benefits to the public of heavy vehicle AEB requirements, we urge NHTSA to finalize the strongest possible rule as expeditiously as it can.

Thank you for your consideration of our comments. We look forward to the final rule and will continue to collaborate with NHTSA, other safety organizations and advocates, and individual consumers to improve safety for everyone on our roads.

Respectfully submitted,



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⁹ Consumers Union, now Consumer Reports, supported the extension of ESC requirements in school buses in 2012 (online at: <https://www.regulations.gov/comment/NHTSA-2012-0065-0053>).

Appendix A

Please see CR's petition language below, and the attached additional document containing the names of 24,371 consumers who signed in support of the plans by the National Highway Traffic Safety Administration (NHTSA) to require automatic emergency braking (AEB) and pedestrian automatic emergency braking (PAEB) in all new cars, SUVs, and trucks, and who urged the agency to finalize the strongest possible requirements without delay.

*Taking a walk shouldn't be deadly!
Lifesaving automatic braking should be on all new vehicles.*

I write in support of NHTSA's plans to require automatic emergency braking (AEB) features, including pedestrian (PAEB), in all new cars, SUVs, and trucks. It's crucial for our safety watchdog to make our roads safer for everyone and reduce the number of Americans killed and injured in car crashes.

NHTSA needs to hold automakers to the highest possible standards of AEB. These systems should be able to detect everyone on the road – regardless of whether it's day or night – and respond effectively to stop a collision with them, or at least make it much less severe. The technology is proven, it saves lives, and it's already required in other countries around the world. NHTSA should finalize the strongest possible requirements without delay.