



March 14, 2022

Docket Management
U.S. Department of Transportation
1200 New Jersey Avenue SE
West Building, Room W12-140
Washington, DC 20590

RE: Docket No. NHTSA-2021-0094

The National Mobility Equipment Dealers Association (“NMEDA”) is a non-profit trade association dedicated to expanding opportunities for people with disabilities to safely drive or be transported in vehicles. NMEDA has historically worked closely with NHTSA on mobility vehicle matters, including the subject exemption for the make inoperative prohibition, and the Association hopes to again function as a resource as NHTSA conducts this information collection related to aftermarket modification of vehicles to accommodate people with disabilities.

The make inoperative exemptions (“Exemptions”) currently detailed and enforced by NHTSA are a foundational element of automotive mobility in the United States. NMEDA’s membership is in part comprised of commercial entities that modify vehicles after the first retail sale and wish to use the Exemptions to facilitate the independence of people with disabilities. NMEDA submits the following comments in response to this information collection:

1. Requirement to Submit Identification Information to NHTSA To Use the Exemptions

NMEDA members generally report satisfaction with the current requirement to submit identification information to NHTSA to use the Exemptions. The submission process for the *Identification of Adapted Vehicle Modifier (49 CFR Part 595)* document via NHTSA’s online Manufacturer Portal (“the Portal”) is a significant improvement compared to the previous paper-based process, and NMEDA members appreciate the ability to submit updates to their existing record(s) online.

However, the following issues persist regarding the Portal and NHTSA’s associated Adapted Vehicle Modifier Identification Database (“the Database”):

- (a) NHTSA acknowledges that the agency does not approve, endorse, or assess the abilities of any of the modifiers who have furnished information under Part 595, nor does the agency verify or validate the information submitted by each modifier. In other words, any individual or business can conceivably elect to use the Exemptions available under the rule and secure a listing in the Database regardless of their knowledge, experience, and/or abilities. This failure to verify modifiers’ basic knowledge, experience, and/or abilities significantly hampers at least one federal agency – the Department of Veterans Affairs – from identifying legitimate modifiers. Given that members of the public also rely on the Database to identify modifiers, NMEDA encourages NHTSA to reconsider its position on approving, endorsing, or assessing the abilities of modifiers who have

National Mobility Equipment Dealers Association

3327 W. Bearss Ave. | Tampa, FL 33618 | 813.264.2697 | www.nmeda.org | info@nmeda.org

furnished information under Part 595. At a minimum, the agency can and should act to better verify or validate the basic information submitted by entities alleging to be modifiers.

- (b) The stated purpose of the Database is to provide a running and cumulative listing of all businesses that have sought identification as a vehicle modifier under the requirements of 49 CFR Part 595. As such, the Database is updated as new information is received but is not purged of modifiers who may have over time changed names, addresses, or gone out of business. Currently, the Database includes many modifiers with multiple listings (some having over a dozen separate listings). NMEDA has received reports – from modifiers who register/update their information through the Portal as well as individuals/entities that rely on the Database listings – that NHTSA’s current approach to Database maintenance is neither useful nor clear. As a federal agency subject to requirements to ensure accurate and complete recordkeeping, NHTSA is urged to thoroughly review the existing Database to ensure that modifiers whose information has changed or whose business operations have ceased are removed from the Database listings. Doing so will help NHTSA meet its obligation to provide the public with accurate information.

The Database has the potential to function as a meaningful resource for modifiers, government agencies, and members of the public. In its current form, however, the information included in the Database arguably does not have “practical utility.” NMEDA recommends that NHTSA view this information collection as an opportunity to address the above-referenced shortcomings and improve the quality, utility, and clarity of the Database content. Suggested improvements include but are not limited to:

- Assigning a “Modifier Tracking Number” upon modifier registration and including all older/outdated records under a single streamlined Database listing for said modifier;
- Adopting a periodic renewal schedule for all modifiers listed in the Database;
- Including a notation in the Database signifying that a modifier is no longer in business or no longer identifies as a modifier.

2. Requirement to Provide a Document to the Owner of the Modified Vehicle

This requirement is both sensible and unburdensome. As a potential alternative to the annotated invoice method, please see the attached fillable form that NMEDA members use to comply with this requirement.

3. Retaining a Copy of the Document Provided to Vehicle Owners

NMEDA concurs that there are no additional burden hours associated with the requirement to retain a copy of the disclosure provided to the vehicle owner. Any legitimate vehicle modification business will possess the capability to prepare an invoice, annotate the invoice as to the Exemption(s) involved with each item on the invoice, provide a copy of the invoice to the vehicle owner, and keep a copy of that invoice for five years after the vehicle is delivered to the owner in finished form. NMEDA’s Quality Assurance Program (QAP) – the only accreditation for mobility equipment dealers in North America – requires complete records of all modifications to be retained for a minimum of seven years.

4. Label Requirement

This information collection noticeably did not reference or ask for comment on NHTSA’s requirement found in 49 CFR 595.7(b) that a modifier affix a permanent label to the vehicle identifying itself as the

modifier and indicating that the vehicle may no longer comply with all FMVSS in effect at the time of its original manufacture. The Association is uncertain if this omission was intentional. Assuming that it was not, NMEDA notes the following:

- (a) The requirement to affix a permanent label indicating that the vehicle may no longer comply with all FMVSS in effect at the time of its original manufacture appropriately informs current and future vehicle owners that certain safety features of the vehicle may have been made inoperative. The label also references the modifier's name and physical address if the vehicle owner has questions or seeks clarification regarding the vehicle or the Exemptions.
- (b) The specifications of the "permanent label" are referenced in 49 CFR Part 595.7(d) and require that the label (1) be permanently affixed to the vehicle, (2) be located adjacent to the original certification label or the alterer's certification label if applicable, (3) give the modifier's name and physical address, and (4) contain the following statement: "This vehicle has been modified in accordance with 49 CFR 595.6 and may no longer comply with all Federal Motor Vehicle Safety Standards in effect at the time of its original manufacture." NHTSA should note that creating or obtaining a label that meets these specifications involves labor and material costs.

* * *

NMEDA appreciates the opportunity to comment on this information collection. Please contact Amy.Schoppman@nmeda.org for additional information or details. Thank you for your consideration.

US DEPARTMENT OF TRANSPORTATION
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
"MAKE INOPERATIVE" DISCLOSURE FORM

Modifier Information

Dealer/Modifier Name: _____

City, State, Zip: _____

Phone Number: _____

Vehicle Information

Make: _____ Model: _____ VIN: _____

Owner's Name: _____

Address: _____

City, State, Zip: _____

Driver modification was made? ___ Yes ___ No Passenger modification was made? ___ Yes ___ No

Modification(s) Made

As a result of modifications to the above vehicle to enable a person with a disability to operate or ride as a passenger in the vehicle, it may no longer comply with the following Federal Motor Vehicle Safety Standards or portions thereof (all that apply are checked). *Examples of common modifications shown in bullets.*

_____ **49 CFR 571.101 - Controls and displays**

- *Headrest Switches installed*
- *Touch Pads installed*
- *Quad Consoles installed*
- *Horizontal steering installed*

_____ **49 CFR 571.108 – Lamps, Reflective Devices and Associated Equipment** [S9.1.1]

- *No steering wheel*
- *Horizontal steering installed*
- *Deep dish steering installed*
- *Modified OEM turn signal, disabling self-canceling feature*

_____ **49 CFR 571.114 - Key Locking System** [S5.1.2 and S5.1.3]

- *Modified the number of key combinations available for the engine starting system*
- *Modified the audible warning to the vehicle operator indicating that the key is in the starting system and the door located closest to the driver's designated seating position is opened.*

_____ **49 CFR 571.118 – Power-operated Windows** – [S4(a)]

- *Remote ignition switch, remote starter, remote power-operated windows, partitions and/or roof panels installed*

_____ **49 CFR 571.123 – Motorcycle Controls and Displays** – [S5.1, S5.2.1] supplemental engine stop control installed.

_____ **49 CFR 571.135 – Passenger Car Brake System** – [S5.3.1] the original foot pedal has been removed.

_____ **49 CFR 571.201 - Occupant Protection in Interior Impact** - targets located on one side.

- *Padding for "B" pillar and/or other pillars removed for lift in stowed position*
- *Hand grips, vertical stanchion bars Installed*
- *Raised roof and/or Lowered floor have modified the upper compartment test targets*

_____ **49 CFR 571.202 (i) and (ii) - Head Restraint** – [sections (i) and (ii)]

- *Removed OEM driver or front passenger seat and installed wheelchair tie down(s) or docking station*

**US DEPARTMENT OF TRANSPORTATION
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
"MAKE INOPERATIVE" DISCLOSURE FORM**

_____ **49 CFR 571.202 or 49 CFR 571.202a - Head Restraint** - was modified to accommodate a driver or a front row outboard passenger with a disability. [S4.2, S4.2(b)(1), S4.2(b)(2)S4.3(b)(1), S4.3 (if vehicle MFG date is prior to 3/14/05) (b)(2), of 202] or [S4.2.1, S4.2.2, S4.2.3, S4.2.4, S4.2.5, S4.2.6, and S4.2.7 of 202a]

- *Head restraint was modified to accommodate a driver or front row outboard passenger*
- *Seat was modified to accommodate a driver or front row outboard passenger with a disability*
- *Modified transfer driver seat (driver or front row outboard passenger)*

_____ **49 CFR 571.203 - Impact Protection for the Driver from the Steering Control System** – [S5.1 and 5.2] structural change, or removal of the original equipment manufacturer steering shaft

- *Steering column extension or specialized steering equipment installed on the steering wheel*

_____ **49 CFR 571.204 - Steering Control Rearward Displacement** – structural change, or removal of, the original equipment manufacturer steering shaft

- *Modifications were made to the steering column that affect the rearward displacement*
- *Steering column extension or Horizontal steering system installed*

_____ **49 CFR 571.207 - Seating System** – [S4.1] The driver seat was removed to accommodate a driver seated in a wheelchair, A wheelchair securement device is installed at the driver position.

_____ **49 CFR 571.208 - Occupant Crash Protection** – [S4.1.5.1(a)(1), S4.1.5.1(a)(3), S4.2.6.2, S5, S7.2, S7.4, S14, S15, S16, S17, S18, S19, S20, S21, S22, S23, S24, S25, S26 and S27]. Modifications to any designated seating position affects the airbag suppression system.

- *Removed knee bolster to install hand controls*
- *Air bag on/off switch(es) installed*
- *Air bag removed/disabled/shunted*
- *Installed type 2 or 2A seat belts*

_____ **49 CFR 571.214 - Side Impact Protection** – [S7 and S9]

- *Restraint system (seat belt/tie down) installed or seats changed (any position)*
- *Transfer seat installed (all types)*

_____ **49 CFR 571.225 – Child Restraint Anchorage Systems**

- *relocated to front passenger seat*
- *Removed rear row seats*

_____ **49 CFR 571.226 - Ejection Mitigation** - [S4.2 and S5]. Seat changed to accommodate a person with a disability.

- *Replacement of an original seat with a transfer seat*
- *Side curtain airbag has been removed/disabled/shunted*

_____ As a result of the modifications, the load carrying capacity of the vehicle has been reduced by over 220 lbs. The new available load carrying capacity is _____ lbs. The weight of the user's wheelchair/scooter is not included in the available load carrying capacity.

Customer Acknowledgement

I (printed name) _____ understand that the above stated vehicle has been modified in accordance with 49 CFR Part 595.6 and may no longer comply with all Federal Motor Vehicle Safety Standards in effect at the time of its original manufacture. Said modifications have been done at my express request and were based on an evaluation provided to the above modifier in order to enable me or a member of my family with a disability to operate or ride as a passenger in the vehicle.

Customer Signature

Date