



U.S. Department
of Transportation

**National Highway
Traffic Safety
Administration**

1200 New Jersey Avenue, SE
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Tire Industry Association
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This letter responds to your letter to the Administrator on behalf of the Tire Industry Association (TIA) raising concerns that the tire industry has with the agency's tire pressure monitoring systems (TPMS) regulations. Because your letter raises legal questions, I have been asked to respond.

Your letter states that the TIA represents all segments of the tire industry, including manufacturers, repair businesses, dealers, recyclers, retreaders, and suppliers. You state that your members have encountered concerns with TPMS malfunction indicator lamps illuminating after the performance of certain services and repairs on vehicles. You raise issues confronted by your members when encountering TPMS systems and ask whether actions by service providers violate the "make inoperative" provision of the Motor Vehicle Safety Act. The make inoperative provision (49 USC § 30122(b)) prohibits manufacturers, distributors, dealers, or motor vehicle repair businesses from knowingly making inoperative, in whole or in part, any part of a device or element of design installed on or in a motor vehicle in compliance with an applicable motor vehicle safety standard.

You put forth four scenarios faced by your membership. You request clarification from NHTSA on the applicability of the "make inoperative" provision. We address each scenario in turn below. For each scenario, we address only the applicability of the "make inoperative" provision in the context of Federal Motor Vehicle Safety Standard (FMVSS) No. 138, Tire Pressure Monitoring Systems. We have stated in the past that TPMS requires special consideration because TPMS itself is analogous to a malfunction indicator.¹ Thus, our response to all of the scenarios you raise regarding the "make inoperative" provision may not be applicable to all FMVSSs.

¹ See, e.g., 70 FR 18160-61

Please note that in those circumstances in which Federal law does not require dealers or owners to repair a malfunctioning TPMS system, NHTSA nevertheless strongly encourages such repair so that the vehicle continues to provide maximum safety protection. We note that State tort, contract, or other laws governing motor vehicle repair businesses may impose additional requirements upon your members.

Scenario #1: If a motorist is made aware of an inoperative TPMS sensor and declines to purchase a new one, does the service provider knowingly make the system inoperative and violate 49 USC 30122(b) by removing the dead or damaged sensor and replacing it with a standard snap-in rubber valve stem?

Our response: For the purpose of this response, we assume that you are referring solely to TPMS sensors that are integrated with the valve stem. Moreover, we assume that the sensor was inoperative before a customer brought the vehicle to the repair business. An illuminated malfunction indicator lamp could be an indication of an inoperative sensor. We also assume that you are describing a part within the TPMS system that cannot be repaired. In that event, a motor vehicle repair business would not be violating 49 USC 30122(b) by removing an inoperative or damaged TPMS sensor and replacing it with a standard snap-in rubber valve stem. The removal of a malfunctioning TPMS sensor that is integrated with a valve stem would not violate the “make inoperative” provision because the element of the system was already inoperative. However, a motor vehicle repair business that goes on to make any other element of the TPMS system inoperative, for example, by disabling the malfunction indicator lamp, would violate the “make inoperative” provision.

Scenario #2: If a motorist purchases a set of aftermarket winter tires and wheels and declines to purchase new TPMS sensors, does the service provider violate 49 USC 30122(b) because they would be installing assemblies that knowingly make the system inoperative?

Our response: In this scenario, we assume that the vehicle has a functioning TPMS system at the time he or she purchases aftermarket tires and wheels. In that case, a service provider would violate the “make inoperative” prohibition of 49 USC 30122(b) by installing new tires and wheels that do not have a functioning TPMS system. To avoid a “make inoperative” violation, the service provider would need to decline to install the new tires and rims, use the TPMS sensors from the original wheels (if they are compatible), or convince the motorist to purchase new TPMS sensors and ensure that the sensors are properly integrated with the vehicle’s TPMS system.

You suggest that, if the installer does not disable the malfunction indicator lamp, the driver would still be warned that the TPMS system is inoperative and there would be no violation of 49 USC 30122(b). However, the illumination of the malfunction indicator lamp is inapposite to this scenario. By removing tires and wheels with functioning TPMS sensors and replacing them with tires and wheels without TPMS sensors, the repair business has knowingly removed an essential part of the TPMS system. This is precisely the type of action that the “make inoperative” provision of 49 USC 30122(b) is intended to prohibit.

Scenario #3: If a service provider inadvertently breaks a non-defective sensor and is unable to locate a replacement part immediately, is it a violation of 49 USC 30122(b) to allow the vehicle to return to service if the service provider makes arrangements to obtain a replacement part and install it at a future date? And does the answer change if the service provider damages a sensor and then does nothing to replace it or if the customer specifically directs the service provider to finish service without replacing the damaged part (i.e., the customer is in a hurry or wants to have the work done somewhere else)?

Our response: In this scenario, we again presume that you are referring solely to TPMS systems that are integrated with a valve stem.

Your question raises two issues. First, to fully analyze how the “make inoperative” prohibition relates to inadvertent damage would depend on the specific factual circumstances. We note that the “make inoperative” provision prohibits a motor vehicle repair business from “knowingly mak[ing] inoperative any part of a device or element of design installed on or in a motor vehicle or motor vehicle equipment in compliance with the applicable motor vehicle safety standard.” Generally, we would not consider inadvertent actions to violate the “make inoperative” prohibition. However, without more specific facts concerning whether the TPMS was knowingly made inoperative, we cannot provide a more complete response to your question.

To address the second issue raised by your question, the applicability of the “make inoperative” prohibition to the arrangement of repairs at a future date, we note that the “make inoperative” prohibition contains an exception for when the “repair business reasonably believes the vehicle or equipment will not be used (except for testing or a similar purpose during maintenance or repair) when the device or element is inoperative.” Therefore, as a general matter, a violation of the “make inoperative” prohibition does not occur until a repair business allows or intends a vehicle to be returned to use. A motor vehicle repair business would violate 49 USC 30122(b) if it has knowingly made inoperative any part of a device and allowed the vehicle to be used (other than for testing or a similar purpose). This would be true regardless of whether arrangements have been made for future repair, as there are no other exceptions to the “make inoperative” prohibition in the statute.

Of course, if the repair business has not knowingly made a device or element inoperative, there would be no need to use this exception, and the motor vehicle repair business would be able to release the vehicle to the customer, with or without making arrangements to complete a repair, without violating 49 USC 30122(b).


We stress that our response relates solely to the applicability of the “make inoperative” prohibition in 49 USC 30122(b), and does not address whether state or local laws or regulations would impose obligations upon a service provider.

Scenario #4: If the service provider releases the vehicle to the driver without an illuminated malfunction indicator lamp and then it illuminates after the vehicle has been driven, does that become a violation of 49 USC 30122(b)? TIA believes that in this situation, the service provider did not knowingly make the system inoperative so there would be no violation.

Our response: We discussed this scenario in the April 2005 final rule.² The mere illumination of the malfunction indicator lamp after the vehicle has been released by a motor vehicle repair business to the driver would not itself be a violation of the “make inoperative” provision. FMVSS No. 138 requires that the malfunction telltale illuminate not more than 20 minutes after the occurrence of a malfunction, meaning that the system may not detect a malfunction that occurred while the car was at the motor vehicle repair business until the car has been released to the owner and driven for some time. Whether or not a “make inoperative” violation has occurred would depend only upon whether the motor vehicle repair business knowingly made inoperative an element of the TPMS system that caused the malfunction indicator lamp to illuminate.

I hope this information is helpful. If you have any further questions, please feel free to contact David Jasinski of my office at (202) 366-2992.

Sincerely yours,



O. Kevin Vincent
Chief Counsel

² See 70 FR 18160-61.