



## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2018-0028; Notice 1]

### Mobility Ventures, LLC, Receipt of Petition for Decision of Inconsequential

### Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Receipt of petition.

**SUMMARY:** Mobility Ventures, LLC (Mobility), a wholly owned subsidiary of AM General, LLC, has determined that certain model year (MY) 2015-2016 Mobility Ventures MV-1 motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 126, *Electronic Stability Control Systems for Light Vehicles*. Mobility filed a noncompliance report dated February 14, 2018. Mobility subsequently petitioned NHTSA on February 20, 2018, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Mobility's petition.

**DATES:** The closing date for comments on the petition is [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal Holidays.
- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to [https://www.regulations.gov](https://www.regulations.gov/), including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <https://www.regulations.gov> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000, (65 FR 19477-78).

#### **SUPPLEMENTARY INFORMATION:**

**I. Overview:** Mobility has determined that certain MY 2015-2016 Mobility MV-1 motor vehicles do not fully comply with the requirements of paragraph S5.3.3 of FMVSS No. 126, *Electronic Stability Control Systems for Light Vehicles* (49 CFR 571.126). Mobility filed a noncompliance report dated February 14, 2018, pursuant to CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Mobility subsequently petitioned NHTSA on February 20, 2018, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of their petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of this petition.

**II. Vehicles Involved:** Approximately 977 MY 2015-2016 Mobility Ventures MV-1 vehicles, manufactured between December 22, 2014, and August 24, 2015, are potentially involved.

**III. Noncompliance:** Mobility explains that the previous model year vehicles (2011-2014) were equipped with a 4.6L V8 powertrain with 6 ignition states and the engine was changed in model years (2015-2016) to a 3.7L V6 powertrain with 11 ignition states. Following the change, the supplier of the Electronic Brake Control Module (EBCM) incorrectly programmed the EBCM memory chip to recognize the possible power mode states. This issue led to the telltale warning lamp not illuminating to indicate an Electronic Stability Control (ESC) fault under certain starting conditions, thus, not complying with paragraph S5.3.3 of FMVSS No. 126.

**IV. Rule Requirements:** Paragraph S5.3.3 of FMVSS No. 126, include the requirements relevant to this petition. As of September 1, 2011, except as provided in paragraphs S5.3.4, S5.3.5, S5.3.8, and S5.3.10, the ESC malfunction telltale must illuminate only when a malfunction of the ESC system exists and must remain continuously illuminated under the conditions specified in paragraph S5.3 for as long as the malfunction exists (unless the “ESC malfunction” and “ESC Off” telltale are combined in a two-part telltale and the “ESC Off” telltale is illuminated), whenever the ignition locking system is in the “On” (“Run”) position.

**V. Summary of Petition:** Mobility described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Mobility submitted the following reasoning:

1. Mobility submits that this nonconformity is inconsequential to vehicle safety. Mobility believes that this is a *de minimis* noncompliance with paragraph S5.3.3 of FMVSS No. 126 because the Traction Control Off warning lamp will illuminate when a fault is detected, either immediately if the Operator pauses with the key in the "ignition on" state before starting the vehicle, or upon driving if the vehicle is started without pausing in the "ignition on" state. While the correct telltale warning lamp does not illuminate,

Operators are still alerted to the possibility of a malfunction with the ESC system by the illumination of the Traction Control Off warning lamp.

2. Notwithstanding the lack of a safety risk, Mobility and BWI (the EBCM Supplier) are developing a plug-and play re-flashing tool that will permit uploading of revised software into the current EBCM installed in the vehicle. This revised software correctly tracks the ignition sequences required by FMVSS No. 126, and fully corrects the observed noncompliance. Re-flashing is the preferred repair-solution. Currently the only available way to update the EBCM's software is to remove and replace the entire electrical and hydraulic unit with one that has had its software updated. Mobility is preparing to implement this re-flashing solution as required.
3. Mobility has notified its dealers to stop sale of any affected MV-1 vehicles that may be in their dealer inventory (new, used or demonstrator) until the EBCM software is updated. While Mobility does not believe that this technical noncompliance poses a safety risk, Mobility Ventures authorized dealers will perform EBCM unit replacement or re-flashing (when available) free-of-charge when vehicle owners present to Dealers for service.
4. Mobility is not aware of any issues with the performance of the ESC system. As of February 2018, Mobility has not received any warranty claims, field reports, or information about injuries or crashes related to the performance of the ESC.

Mobility concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

Mobility's complete petition and all supporting documents are available by logging onto the Federal Docket Management System (FDMS) website at: <https://www.regulations.gov> and by following the online search instructions to locate the docket number listed in the heading of this notice.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Mobility no longer controlled at the time it determined that the noncompliance existed.

However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Mobility notified them that the subject noncompliance existed.

**Authority:** (49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

**Otto G. Matheke III,**

*Director, Office of Vehicle Safety Compliance.*

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