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ATTORNEY GENERAL RAOUL CALLS ON THE NHTSA TO RESTORE PENALTIES FOR AUTOMAKERS THAT FAILED TO COMPLY WITH FUEL ECONOMY STANDARDS

Chicago — Attorney General Kwame Raoul, as part of a coalition of 13 attorneys general, urged the National Highway Transportation Safety Administration (NHTSA) to restore penalties for automakers that failed to meet corporate average fuel economy (CAFE) standards for model year 2019-2021 vehicles.

In 2016, NHTSA imposed an inflation-adjusted penalty of \$14 for every tenth of a mile-per-gallon (mpg) that an automaker falls below the CAFE standards beginning for model year 2019 vehicles. This penalty was reduced by the NHTSA in an interim final rule just before the end of the previous presidential administration. In [the comment letter](#), Raoul and the coalition call for the immediate reversal of this rule and reinstatement of the \$14 penalty.

“By restoring the original penalty, the NHTSA will ensure that automakers will meet standards that will decrease pollution, save consumers money and address the devastating effects of climate change,” Raoul said. “I am committed to ensuring that this unlawful rule does not stand, and I will advocate for policies that protect the environment and the health of Illinois residents.”

Under the previous administration, the NHTSA repeatedly sought to slash the penalty paid by automakers that failed to meet CAFE standards from \$14 to \$5.50. Raoul and a coalition of attorneys general successfully challenged these unlawful rules in the Second Circuit in 2018 and 2020. In January 2021, NHTSA made a third attempt to revert to the much lower \$5.50 penalty. Shortly after, Raoul and the coalition of attorneys general filed a new lawsuit challenging the penalty change. That litigation is currently in abeyance while NHTSA considers new regulations.

In the comment letter, Raoul and the coalition call on the NHTSA to withdraw this unlawful rule and reinstate the higher penalties for automakers that fail to meet CAFE standards. Raoul and the coalition argue that the NHTSA has no reason to delay these penalties to future model years because:

- Any violation of the CAFE standards for model years 2019–2021 occurred well after the NHTSA increased the penalty to \$14, negating any retroactivity concerns.
- Automakers have known since at least July 2016 that NHTSA was raising the CAFE penalty to \$14, so claims that they reasonably relied on the \$5.50 penalty rate lack credibility.
- There is no evidence showing that the pandemic impacted compliance with the CAFE standards.

Joining Raoul in filing the comments are the attorneys general of California, Connecticut, Delaware, Iowa, Maryland, Massachusetts, New Jersey, New York, Oregon, Pennsylvania, Vermont and Washington.