



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2020-0010; Notice 2]

Mercedes-Benz USA, LLC, Grant of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Grant of petition.

SUMMARY: Mercedes-Benz AG (MBAG) and Mercedes-Benz USA, LLC (MBUSA) (collectively, “Mercedes-Benz”) has determined that certain model year (MY) 2019–2020 Mercedes-Benz CLA-Class, A-Class, GLA-Class, and GLB-Class motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 135, *Light Vehicle Brake Systems*. Mercedes-Benz filed a noncompliance report dated January 27, 2020, and subsequently petitioned NHTSA on February 10, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces the grant of Mercedes-Benz’s petition.

FOR FURTHER INFORMATION CONTACT: Vince Williams, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-2319.

SUPPLEMENTARY INFORMATION:

I. Overview: Mercedes-Benz has determined that certain MY 2019–2020 Mercedes-Benz CLA-Class, A-Class, GLA-Class, and GLB-Class motor vehicles do not fully comply with the requirements of paragraph S5.5.5 of FMVSS No. 135, *Light Vehicle Brake Systems* (49 CFR 571.135). Mercedes-Benz filed a noncompliance report dated January 27, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*, and subsequently

petitioned NHTSA on February 10, 2020, 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, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

Notice of receipt of Mercedes-Benz's petition was published with a 30-day public comment period, on May 6, 2020, in the **Federal Register** (85 FR 27024). NHTSA received one comment from the general public. To view the petition and all supporting documents, log onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2020-0010."

II. Vehicles Involved: Approximately 27,375 of the following MY 2019–2020 Mercedes-Benz CLA-Class, A-Class, GLA-Class, and GLB-Class motor vehicles manufactured between August 20, 2018, and January 16, 2020, are potentially involved:

- Mercedes-Benz A220
- Mercedes-Benz A220 4MATIC
- Mercedes-Benz A35 AMG 4MATIC
- Mercedes-Benz CLA250
- Mercedes-Benz CLA250 4MATIC
- Mercedes-Benz CLA35 AMG 4MATIC
- Mercedes-Benz CLA45 AMG 4MATIC
- Mercedes-Benz GLA250 4MATIC
- Mercedes-Benz GLB250
- Mercedes-Benz GLB250 4MATIC

III. Noncompliance: Mercedes-Benz explains that the noncompliance is that the instrument panel in the subject vehicles displays the braking telltales in a slightly smaller size than required by paragraph S5.5.5 of FMVSS No. 135. Specifically, the size of the text for the brake telltales

in the subject vehicles ranges between 2.92 mm to 3.17 mm when the minimum required is 3.2 mm.

IV. Rule Requirements: Paragraph S5.5.5 of FMVSS No. 135, includes the requirements relevant to this petition. Each visual indicator shall display a word or words in accordance with the requirements of FMVSS No. 101 and S5.5 of FMVSS 135, which shall be legible to the driver under all daytime and nighttime conditions when activated. Unless otherwise specified, the words shall have letters not less than 3.2 mm (1/8 inch) high.

V. Summary of Mercedes-Benz's Petition: The following views and arguments presented in this section, "V. Summary of Mercedes-Benz's Petition," are the views and arguments provided by Mercedes-Benz and do not reflect the views of the Agency. In its petition, Mercedes-Benz describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Mercedes-Benz offers the following reasoning:

1. Mercedes-Benz believes that the letter height of the braking telltales, which in this instance is slightly smaller than the requirement, does not expose an occupant to any greater risk of injury than an occupant in a vehicle with slightly larger font size.
2. Mercedes-Benz alleges that the purpose of the standardized size requirement for the brake system warning telltales is to ensure they are visually perceptible to drivers under all operating conditions. Mercedes-Benz says that the Agency has a long and consistent history of granting petitions for inconsequentiality for discrepancies involving a letter height requirement where the text appeared somewhat smaller than required. Mercedes-Benz says that NHTSA has granted petitions where the telltales displayed included lettering that was as much as a full millimeter less than the minimum size. *See* 47 FR 31347 (July 19, 1982) (granting a petition of Subaru of America, Inc., where the brake system indicator lettering was only 2.2 mm high, but the

- ISO symbol telltales were located within the driver's line of sight and continued to be "easily identifiable and very readable").
3. Mercedes-Benz asserts that in addressing similar noncompliances in the past, the Agency has determined that "it is very unlikely that a vehicle user would either fail to see or fail to understand the meaning of the brake ... warning light" where the "information presented by the telltales is correct." *See* 81 FR 92963 (December 20, 2016) (granting General Motors' petition of over 46,000 vehicles where the "Park" indicator displayed at 2.44 mm). In the General Motors decision, the Agency found the discrepancy "pose[d] little, if any, risk to motor vehicle safety" where all other braking indicator requirements were met and the telltales were located in the instrument cluster, adjacent to the speedometer and in direct view of the driver); 69 FR 41568 (July 9, 2004) (granting a petition of Hyundai Motor Company involving more than 237,000 vehicles, where the FMVSS No. 105 braking system indicator letter height varied from 2.5 mm to 3.1 mm).
 4. In subject noncompliance, the letter height for the braking telltales are only slightly smaller than the 3.2 mm minimum. Depending on the particular indicator, the text size can be smaller by a range of 0.03 mm up to a maximum of .28 mm. The electronic instrument cluster is located within the driver's direct field of vision, and the braking telltales are located adjacent to the speedometer and, therefore, remain within the driver's direct line of sight. Mercedes-Benz claims that this slight difference in size is not visually perceptible and does not affect the driver's ability to read or understand the telltales. Mercedes-Benz further asserts that the telltales are clearly illuminated and remain visible under all driving conditions.

5. Mercedes-Benz states that all the telltales at issue here are accurately depicted and are displayed in the correct colors, consistent with FMVSS No. 101, Table 1. Thus, there should not be any confusion about the meaning of the telltales, and the standard symbol that is displayed continues to convey the intended meaning of the indicator. Further, although the lettering that appears below the ISO symbols is slightly smaller than 3.2 mm minimum height, the overall height of the ABS and Parking Brake symbols is more than 3.2 mm and exceeds the height requirement of the standard. Finally, the functionality of the brake telltales themselves is not affected by the software issue. The telltales properly display during both the instrument cluster warning lamp operation check and in the event a brake malfunction was to occur.
6. Mercedes-Benz says that it has not received any reports related to the performance of the telltales included on the 10.25-inch displays in the subject vehicles. Nor has it received any reports related to customers' inability to read or decipher the brake telltales.

Mercedes-Benz concludes 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.

Mercedes-Benz'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 as listed in the title of this notice.

VI. Public Comment: NHTSA received one comment from the general public. While the Agency takes great interest in the public's concerns and appreciates the commenter's feedback, the comment does not address the purpose of this particular petition.

VI. NHTSA's Analysis: In determining inconsequentiality of a noncompliance, NHTSA focuses on the safety risk to individuals who experience the type of event against which a recall would otherwise protect.¹ In general, NHTSA does not consider the absence of complaints or injuries when determining if a noncompliance is inconsequential to safety. The absence of complaints does not mean vehicle occupants have not experienced a safety issue, nor does it mean that there will not be safety issues in the future.² Further, because each inconsequential noncompliance petition must be evaluated on its own facts and determinations are highly fact-dependent, NHTSA does not consider prior determinations as binding precedent. Petitioners are reminded that they have the burden of persuading NHTSA that the noncompliance is inconsequential to safety.

While reviewing the facts of the case, OVSC reached out to Mercedes to find out if there were additional warnings messages that triggered along with the brake indicator. Mercedes provided several screenshots that show supplemental warning messages that activate along with brake indicator and help convey the required brake warnings to the driver. Taking into consideration all of the information provided and the oversized height of the additional information, the Agency agrees with Mercedes-Benz that this noncompliance will not have an adverse effect on vehicle safety. Despite the letter height of the braking telltales being slightly smaller than the 3.2 mm requirement, the overall height of the adjacent ABS and Parking Brake ISO symbols is more than 3.2 mm and exceeds the height requirement of the standard. Additionally, the instrument cluster's braking telltales are adjacent to the speedometer and directly within the driver's direct field of view. The aforementioned facts support a conclusion

¹ See *Gen. Motors, LLC; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 35355 (June 12, 2013) (finding noncompliance had no effect on occupant safety because it had no effect on the proper operation of the occupant classification system and the correct deployment of an air bag); *Osram Sylvania Prods. Inc.; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 46000 (July 30, 2013) (finding occupant using noncompliant light source would not be exposed to significantly greater risk than occupant using similar compliant light source).

² See *Morgan 3 Wheeler Limited; Denial of Petition for Decision of Inconsequential Noncompliance*, 81 FR 21663, 21666 (Apr. 12, 2016); see also *United States v. Gen. Motors Corp.*, 565 F.2d 754, 759 (D.C. Cir. 1977) (finding defect poses an unreasonable risk when it "results in hazards as potentially dangerous as sudden engine fire, and where there is no dispute that at least some such hazards, in this case fires, can definitely be expected to occur in the future").

that it would be unlikely for a driver to fail to perceive and understand the meaning of the illuminated telltale and symbols. As the symbols are accurately depicted and are displayed in the correct colors, consistent with FMVSS No. 101, Table 1, there should not be any confusion about the meaning of the telltales; and the standard symbol that is displayed continues to convey the intended meaning of the indicator. The information presented by the telltales is correct.

VII. NHTSA's Decision: In consideration of the foregoing, NHTSA finds that Mercedes-Benz has met its burden of persuasion that the subject FMVSS No. 135 noncompliance in the affected vehicles is inconsequential to motor vehicle safety. Accordingly, Mercedes-Benz's petition is hereby granted, and Mercedes-Benz is consequently exempted from the obligation of providing notification of, and a free remedy for that noncompliance under 49 U.S.C. 30118 and 30120.

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 section 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject vehicles that Mercedes-Benz no longer controlled at the time it determined that the noncompliance existed. However, the granting of 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 Mercedes-Benz 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

[FR Doc. 2025-03387 Filed: 2/28/2025 8:45 am; Publication Date: 3/3/2025]