



**SURVIVAL FACTORS ATTACHMENT**

**NHTSA Opinion Letter 10425**

**Schoharie, NY**

**HWY19MH001**

(5 pages)

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# 10425

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Dear Mr. Salvetti:

This responds to your letter in which you inquired about a vehicle called an "AGM Playa."

You stated that Advanced Generation Motors, Inc. (AGM) converts a Geo Metro or Suzuki Swift into an "AGM Playa" by removing the doors, cutting the roof and "redesigning the vehicle in fiberglass." You stated that the Playa has no doors but can be enclosed in canvas. The pictures you enclosed depicts a subcompact passenger car with no doors and no top but with the A and B pillars intact. A spare tire in a cover has been mounted on the outside of the back of the car. You asked four specific questions, which I will address after first providing some background information.

49 U.S.Code, '30101, et seq.(hereinafter referred to as the Safety Act) authorizes the National Highway Traffic Safety Administration (NHTSA) to issue Federal motor vehicle safety standards (FMVSS) applicable to new motor vehicles and new items of motor vehicle equipment. The Safety Act further provides that no person may manufacture for sale, sell, offer for sale, introduce into interstate commerce, or import into the United States any new motor vehicle or new item of motor vehicle equipment unless that vehicle or item of equipment complies with all FMVSSs applicable to that product on the date of its manufacture. In addition, the Safety Act establishes a self-certification system in which manufacturers are responsible not only for ensuring that their vehicles or equipment comply with all applicable FMVSSs, but also for certifying such compliance. That certification must be displayed in the form of a label as required by 49 CFR Parts 567 and 568.

It appears that the modifications made to the original vehicle makes AGM an alterer of new motor vehicles. An "alterer" is one who, before sale of a previously- certified new motor vehicle to its first retail purchaser, modifies the vehicle other than by the addition, substitution, or removal of readily attachable components such as mirrors or tire and rim assemblies, or minor finishing operations such

as painting, or by altering a vehicle so that its stated weight ratings are no longer valid (49 CFR 567.7). 49 CFR 567.7 requires the alterer to ensure that the vehicle, as altered, conforms to the FMVSSs affected by the alteration(s) and to certify to that effect in accordance with 49 CFR 567.7. Alterers make such certification by affixing a permanent label to the altered vehicle identifying the alterer and the date of alteration. The label must also include a statement that the vehicle, as altered, continues to comply with all applicable FMVSSs. Finally, the alterer must allow the original manufacturer's certification label to remain affixed to the vehicle.

With that background in mind, I turn now to your specific questions.

a. Is this vehicle approved to be on the streets? ANSWER: As stated above, manufacturers must ensure that their vehicles or equipment meet all FMVSSs and certify such compliance. NHTSA does not approve, disapprove, endorse, or offer assurances of compliance of any product in advance of the manufacturer's certification. Rather, NHTSA enforces compliance with the standards as explained in c below. In addition, states have authority to regulate the use of motor vehicles. Therefore, if the state accepts the vehicle for registration, that is an indication that the vehicle meets all state requirements. Accordingly, you should contact your state authorities to determine if the vehicle would meet Florida's licensing and registration requirements. If the required certifications are affixed to the vehicle as discussed above, and if the vehicle is properly registered under state law, the vehicle may be operated "on the streets."

As explained in c below, NHTSA has the authority to determine, in the course of compliance or defect proceedings, that a particular vehicle is unsafe. In that event, the vehicle manufacturer will be required to recall the vehicle and remedy the unsafe feature. We do not prohibit a recalled vehicle from being operated on the streets. Again, the use of motor vehicles is a matter of state law.

b. How do I know that they [vehicles) comply with all the safety requirements? ANSWER: As discussed above, manufacturers and alterers are required to indicate their respective certifications by labels permanently affixed to the vehicle. Look for such labels or ask the alterer to point them out to you.

c. How are they (alterer) responsible for any vehicle problems? ANSWER: NHTSA enforces the FMVSSs in proceedings in which the agency purchases vehicles or equipment at retail and tests them in accordance with the test procedures specified in the standards. If the product "passes" the compliance tests, no further action is taken. If a noncompliance is found, the manufacturer must notify the purchasers of the product and remedy the problem at no expense to the purchasers (i.e., "recall" the product). NHTSA also investigates safety related defects. If either NHTSA or the manufacturer identifies a defect affecting motor vehicle safety, the manufacturer must recall the product.

NHTSA also has authority to oversee how some commercial businesses modify new and used vehicles. 49 U.S.C. '30122 provides that a manufacturer, distributor, dealer, or motor vehicle repair business may not knowingly make inoperative any device or element of design installed in or on a vehicle in compliance with an FMVSS unless that manufacturer, etc., reasonably believes that the vehicle will not be used while the device is inoperative. Violation of this provision could subject the violator to civil penalties of up to \$1,000 per violation, or a maximum penalty of up to \$800,000 for a series of related violations (49 U.S.C. '30165).

Apart from what is required by the FMVSSs, presumably the vehicle you purchase will be covered by a warranty of some kind. As a consumer, you should ascertain whether the alterer warrants the work and/or whether the vehicle manufacturer's warranty may be voided by the alterations.

d. Are there any other requirements beside safety to meet? ANSWER: NHTSA administers a number of programs in addition to the safety program of the FMVSSs. For example, new vehicles must meet fuel economy, bumper, and theft prevention standards in addition to the FMVSSs. I have enclosed an information sheet that briefly describes those programs. The responsibility to meet those requirements falls on the manufacturer and seller of the vehicle.

As stated previously, this agency's authority, except for the defect, compliance, and making inoperative provisions of the Safety Act, terminates upon the first retail sale of a vehicle. After that, the use of that product becomes a matter of state concern. States may impose their own requirements with regard to use, inspection, registration, taxation, and so forth. Accordingly, you should contact your state department of motor vehicles for any further requirements that may be applicable to this "Playa" vehicle.

I hope this information is helpful to you.

Sincerely,

Philip R. Recht Chief Counsel

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