



June 6, 2018

The Honorable John J. Flanagan, Chair  
The Honorable John A. DeFrancisco, Vice Chair  
Senate Rules Committee  
New York State Legislature  
Legislative Office Building  
Albany, New York 08625

Dear Chairman Flanagan and Vice Chairman DeFrancisco:

The Center for Auto Safety writes today to express serious concerns regarding the consequences of Assembly Bill (A.) 8268 and Senate Bill (S.) 7545. The Center, co-founded in 1970 by Ralph Nader and Consumers Union, is an independent, non-profit consumer advocacy organization dedicated to improving vehicle safety, quality, and fuel economy for our members and all drivers, passengers, and pedestrians nationwide. Despite the significant dangers presented by recalled vehicles, these bills include a provision allowing dealers to sell used cars with unrepaired recalls. The bills do not require the recalls be fixed, no matter how deadly, but merely that a consumer be notified about the unrepaired defect instead of fixing it. Why would any state encourage such behavior?

The timing of these bills could not be worse when it comes to consumer safety. The National Highway Traffic Safety Administration has recently recorded multiple years of record numbers of recalls, including over 50 million in 2015 and 2016, each. Today, according to most estimates, there are close to 60 million unrepaired recalled cars in the U.S. These recalls include vehicles with exploding Takata airbag inflators which have resulted in at least 23 deaths worldwide, GM ignition switch failures which have resulted in at least 170 deaths in the U.S., and hundreds of other less-publicized defects posing significant threats to public safety.

A pillar of federal and state recall authority is the ability to remove unsafe products from the stream of commerce. For example, it is illegal to sell recalled food, recalled pharmaceuticals, or recalled children's toys. Federal law currently prohibits the sale of new vehicles subject to an unrepaired recall. It is also illegal for rental car companies to rent a vehicle with unrepaired recalls. Conversely, A.8268 and S. 7545 pave the way for defective and dangerous products to be unleashed onto New York roads. Unlike many other products, a defective automobile is especially dangerous because the risks are not limited to the direct consumer, but to all persons on the road. Drivers, passengers, and pedestrians in New York would thus be subjected to unnecessary risks by these bills.

Twice as many used cars as new cars are sold every year in the United States. Critically, New York residents with limited economic resources are the most likely purchasers of used cars. It is illogical to encourage the sale of a dangerous car to those in the absolute worst position to have the time to get these repairs. Rather, New York should insist that dealers, who can repair recalled vehicles at no cost because recall repairs are free of charge under federal law, are required to ensure that their used cars are in a safe condition prior to sale.

The purchase of a second-hand car should not mean that the buyer, and everyone else on the road, deserves second rate safety protections.

Thank you for your consideration,

Jason Levine  
Executive Director, Center for Auto Safety