

**Advocates for Highway and Auto Safety
Americans for Financial Reform
Center for Auto Safety
Consumer Action
Consumer Federation of America
Consumer Federation of California
Consumers for Auto Reliability and Safety
Kids and Car Safety
MASSPIRG
National Association of Consumer Advocates
National Consumer Law Center (on behalf of its low-income clients)
National Consumers League
Public Citizen
Safety Research and Strategies
The Trauma Foundation
U.S.PIRG**

June 15, 2021

The Honorable Maria Cantwell
Chairperson, Senate Committee on Commerce
United States Senate
Washington, D.C. 20510

The Honorable Roger Wicker
Ranking Member, U.S. Senate Committee on Commerce
United States Senate
Washington, D.C. 20510

**Re: S 1835, Used Car Safety Recall Repair Act
Introduced by Senators Blumenthal, Markey and Warren
SUPPORT**

Dear Chairperson Cantwell and Ranking Member Wicker:

On behalf of the organizations listed above, which together represent tens of millions of American consumers, workers, and their families, we urge you to vote to include S.1835, The Used Car Safety Recall Repair Act, as originally introduced by Senators Blumenthal, Markey, and Warren, in the Surface Transportation Investment Act.

This lifesaving Act is long overdue. A decade ago, in the wake of the Toyota sudden acceleration debacle, Congress directed the Government Accountability Office (GAO) to investigate the status of motor vehicle safety recalls and make recommendations to Congress. Among the GAO's findings, issued in June, 2011:

"NHTSA [the National Highway Traffic Safety Administration] cannot require used-car dealers (or franchised dealerships that sell used vehicles) to... get the defect remedied prior to sale... With over 35 million used cars sold by used and franchised dealerships in the United States in 2009 alone, this could pose a **significant risk to the safety of millions of vehicle drivers** and may have a negative impact on recall completion rates."¹

Unnecessary delays in granting NHTSA the authority called for by the GAO have already cost too many precious lives, and caused too many serious and debilitating injuries. Yet another GAO study, instead of a prohibition, would be a death sentence for vulnerable American used car buyers and their families. Delays cost lives.

The very fact that the National Automobile Dealers Association is actively opposing this lifesaving bill, claiming that safety recall defects are trivial and do not pose a significant threat to consumers, is evidence that the bill is desperately needed, because car dealers continue to mislead the public – including their own customers -- about the hazards posed by dangerous recalled used vehicles. Car dealers commonly downplay the risks and fail to get free recall repairs done before selling hazardous ticking time-bomb vehicles to retail consumers, jeopardizing the health and safety of used car buyers, their families, others who share the roads, and those harmed by collateral damage, such as vehicle-caused wildfires.

Tragically, car dealers fail to value human life enough to get free repairs done to fix deadly safety recall defects, even when the repairs are readily available and can be performed in a matter of hours.

Consumers of color, recent immigrants, and teenagers and young adults buying their first vehicles are particularly vulnerable to being victimized by unscrupulous car dealers, as they frequently cannot afford the brand new vehicles that car dealers are required by federal law to repair – even though the used cars have the exact same safety defects.

The following cases are only a small sample to illustrate why Congress must act now, to provide NHTSA the authority to crack down on car dealers who sell dangerous recalled used vehicles:

In 2019, a car dealer in Connecticut sold a Black teenager who was buying his first car on his own a 2011 Hyundai with 11 unrepaired safety recall defects – a deathtrap on wheels. Fortunately, he found out about the recall defects and sued the dealer under state law and won a refund, plus his attorney's fees. But others are not as fortunate.

Corey Jackson was seriously injured by a faulty ignition switch in the unrepaired recalled 2008 Buick LaCrosse he bought at a Chicago-area used car dealership in 2016. Months later, the defect occurred and he crashed head-on into a tree. The car's airbags did not deploy, due to the safety recall defect. Jackson's head slammed into the steering wheel

¹ United States Government Accountability Office: *Auto Safety: NHTSA Has Options to Improve the Safety Defect Recall Process*, Issued June 2011, page 40. (emphasis added).

and he was knocked unconscious. He suffered a broken jaw, collarbone, wrist and ankle. His hip was shattered. He lost his job and his car. Years later, he was still in pain and walking with a limp.

The former Chairman of the NADA claimed that “only 6% of recalls are ‘hazardous’,” but the reality is far different.² Typical auto safety recall defects include:

- Faulty brakes
- Loss of steering, including steering wheels that come off in the driver’s hands
- Catching on fire
- Seat belts that fail when they are needed in a crash
- Sticking accelerator pedals
- Ticking time-bomb Takata airbags that explode with excessive force, propelling metal shrapnel into the faces, necks, and torsos of drivers and passengers, causing serious injuries including blindness, and causing many victims to bleed to death. This deadly defect exists in tens of millions of recalled vehicles.

This false car dealer claim is even belied by auto dealers within the NADA’s own ranks. Mike Jackson, CEO of AutoNation, the largest franchised new car dealership chain in the U.S., with over 300 franchised new car dealerships coast-to-coast, described the seriousness of auto safety recalls this way:

"These are not that the wrong tire-pressure sticker is on the car or some other little minor item....These are significant safety recalls, and we feel the time has passed that it's appropriate to take a vehicle in trade with a significant safety recall and turn around the next day and sell it to consumers."³

According to the National Highway Traffic Safety Administration:

"All safety recalls resulting from defects present an unreasonable risk to safety and we believe it is inappropriate to suggest that some defects are not risky enough to require repair. For the safety of the motoring public, all recalled vehicles should be fixed promptly."⁴

In addition, the NADA is making false claims about the bill and using outdated data based on the erroneous premise that the bill would require dealers to ground all unrepaired

² “Carlson vows to press NADA's fight against regulation,” *Automotive News*, April 2, 2016. <http://www.autonews.com/article/20160402/RETAIL06/160409936/carlson-vows-to-press-nadas-fight-against-regulation?cciid=email-autonews-asdetroit> Quote in context: “Carlson said only dealers should be authorized to perform all recall repairs for all customers, though he cautioned against legislation to require dealers to fix all recalls on used cars prior to sale. Such a move would ground millions of cars unnecessarily and diminish vehicle trade-in values, because only 6 percent of recalls are 'hazardous,' he said, citing a 2014 analysis by the Alliance of Automobile Manufacturers.”

³ AutoNation CEO Mike Jackson, "[Used-Car Loophole for Used Cars Tightens Up](#)," *Automotive News*, February 8, 2016. (Emphasis added.)

⁴ NHTSA Official Statement, issued April 4, 2011. (Emphasis added.)

recalled used cars, pending the performance of safety recall repairs. However, S1985 would allow car dealers to sell unrepaired recalled used vehicles at wholesale to other dealers, or to auto auctions – just not to retail customers. Wholesale prices tend to be less profitable for the dealers, but particularly at a time when the price of used cars has soared nearly 30% and car dealers' profits are skyrocketing, there can be no justification for allowing car dealers to keep charging top dollar at retail for used cars with killer safety recall defects.

The American public is overwhelmingly on our side on this issue. According to polling conducted by Public Policy Polling in numerous states, including in Florida, Massachusetts, Maryland, Tennessee, Maryland, and New Jersey, over 90% of likely voters oppose allowing car dealers to sell used vehicles with unrepaired recalled safety defects.

In Australia and the United Kingdom, the car dealers' negligent and reckless behavior would be a crime, punishable by fines and – if they cause injuries or deaths – potentially also criminal prosecution.

But here in the U.S., the National Highway Traffic Safety Administration remains powerless to protect the American public – unless the hazardous recalled car is brand new or a used rental car that is subject to the Raechel and Jacqueline Houck Safe Rental Car Act, which passed with widespread bi-partisan support and was signed into law by President Obama in 2015, despite opposition from the NADA and auto manufacturers (except General Motors and Honda).

Tragically, the delay in enacting the Raechel and Jacqueline Houck Safe Rental Car Act likely contributed to the senseless death of Jewel Brangman, who was only 26 when she was killed by an unrepaired Takata airbag in a recalled Honda Civic rental car. Her father Alexander Brangman has become a tireless, internationally recognized auto safety advocate, and is also a supporter of S1835.

Each year, tens of millions of Americans buy used cars from car dealers. Their lives, and the lives of their family members, are at stake. That is why we urge you to stand up to the car dealer lobby and vote YES on S1835.

Thank you for your consideration of our views. Should you or your staff have any questions regarding our position, please contact Rosemary Shahan, President of Consumers for Auto Reliability and Safety.

Respectfully submitted,

Cathy Chase, President
Advocates for Highway and Auto Safety

Linda Jun, Senior Policy Counsel
Americans for Financial Reform and Americans for Financial Reform Education Fund

Jason Levine, Executive Director
Center for Auto Safety

Linda Sherry, Director of National Priorities
Consumer Action

Jack Gillis, Executive Director
Consumer Federation of America

Robert Herrell, Executive Director
Consumer Federation of California

Rosemary Shahan, President
Consumers for Auto Reliability and Safety

Janette Fennell, President and Founder
Kids and Car Safety

Deirdre Cummings, Legislative Director
MASSPIRG

Christine Hines, Legislative Director
National Association of Consumer Advocates

John W. Van Alst, Attorney and Director of the Working Cars for Working Families Project
National Consumer Law Center (on behalf of its low-income clients)

Sally Greenberg, Executive Director
National Consumers League

Remington Gregg, Counsel for Civil Justice and Consumer Rights
Public Citizen

Sean Kane, President
Safety Research and Strategies

Andrew McGuire, Executive Director
The Trauma Foundation

Edmund Mierzwinski, Senior Director, Legislative Programs
U.S. PIRG