



Consumer Federation of America

**consumer action**  
Education and advocacy since 1971



June 5, 2018

Senate Executive Director Kevin Drennan  
Statehouse-Senate Majority Office  
PO Box 099  
Trenton, NJ 08608

RE: A 579 / S 2478 Auto Dealers / Safety Recalls: OPPOSITION

Dear Executive Director Drennan:

On behalf of each of our organizations, which together represent millions of consumers nationwide, we write to oppose passage of A 579 / S 2478.

These measures, which are backed by unscrupulous auto dealers who seek to maximize their profits by knowingly and deliberately selling vehicles with dangerous safety recall defects, would drastically weaken the existing laws in New Jersey that currently protect the public from unsafe vehicles with known safety defects by holding auto dealers liable if they engage in false advertising or bait and switch; fail to comply with express and / or implied warranties; engage in unfair and deceptive acts and practices or fraud; fail to comply with the common law duty of care; or act with negligence, resulting in damage, injuries, or wrongful death.

These bills would shift legal liability onto victims of unsafe vehicles, and give auto dealers a new, unprecedented "safe harbor" for knowingly and deliberately selling vehicles with lethal safety defects, if they merely "disclose" that a vehicle has an unrepaired safety recall. As car dealers themselves have stated publicly, they seek enactment of laws such as this in order to evade legal liability when such sales result in fatalities or injuries.

These measures pose a serious threat to the safety of used car buyers, their families, other passengers, and others who share the roads, including bicyclists and pedestrians, and will result in increased deaths and injuries due to motor vehicle safety defects.

They are similar to other special-interest measures dealers have sought to get enacted in other states, that were either defeated or amended to remove the harmful provisions, including California, New Jersey, Virginia, and Maryland. Because HB 1898 would make New Jersey's laws weaker than the laws in other states, it would make New Jersey into a dumping ground for unsafe recalled cars.

As polling by Public Policy Polling has repeatedly shown, in state after state, likely voters overwhelmingly oppose allowing dealers to sell unrepaired recalled cars, with or without "disclosure," with over 90% opposing such legislation.

It is a violation of federal law for dealers to sell recalled vehicles as "new" cars. It is also a violation of federal law – the Raechel and Jacqueline Houck Safe Rental Car Act, named for two sisters who were killed by a recalled rental car – for rental car companies with fleets of 35 or more vehicles to rent, loan, or sell used vehicles that are subject to a federal safety recall.

Used recalled cars sold by car dealers are equally unsafe, and we believe that used car buyers deserve to have the same level of safety, even if they cannot afford to purchase a new car, or simply choose to purchase a vehicle that is used. But by opening the floodgates for car dealers to sell used vehicles with unrepaired safety recall defects, and undermining existing state law protections, these bills would allow auto dealers to pick and choose who gets cars with lethal safety defects -- discriminating on the basis of race, gender, religion, legal status, or other perceived vulnerabilities, and targeting certain individuals.

These measures would also allow dealers to sell vehicles with defects like exploding Takata airbags, where there are severe shortages of repair parts, and the dealers are well aware there is no way the car buyers can get the recall repairs performed, for months after purchase.

There is no other recalled product that can be sold legally by either a corporation or an individual. To the contrary, the Consumer Product Safety Act prohibits the sale, distribution, or importation of consumer products such as toys, computers, heaters, toasters, table saws, lawn mowers, or other household products that have been recalled. Therefore the American public has a reasonable expectation that used vehicles they purchase or lease from a licensed auto dealership are also free from unrepaired safety recall defects, and are entitled to that protection.

In sum, we strongly urge that these dangerous, profoundly anti-consumer, anti-safety special interest bills be defeated. Thank you for your consideration of our views.

Sincerely,

Jack Gillis, Director of Public Affairs  
Consumer Federation of America

Ira Rheingold, Executive Director  
National Association of Consumer Advocates

Sean Kane, President and Founder  
The Safety Institute

Ken McEldowney, Executive Director  
Consumer Action

Rosemary Shahan, President  
Consumers for Auto Reliability and Safety