



ADVOCATES  
FOR HIGHWAY  
& AUTO SAFETY

June 4, 2018

The Honorable John J. Flanagan  
Chair  
Senate Rules Committee  
New York State Legislature  
Legislative Office Building  
Albany, New York 12247

The Honorable John A. DeFrancisco  
Vice Chair  
Senate Rules Committee  
New York State Legislature  
Legislative Office Building  
Albany, New York 12247

Dear Chairperson Flanagan and Chairperson DeFrancisco:

Advocates for Highway and Auto Safety (Advocates), an alliance of consumer, safety, medical and public health groups, and insurance companies working together to pass highway and auto safety laws that prevent crashes, save lives and reduce injuries, opposes Assembly Bill (A.) 8268/Senate Bill (S.) 7545. This legislation includes a provision to allow dealers to sell used cars subject to an open safety recall by simply notifying the customer at the time of sale about the unrepaired defect instead of fixing it. We urge you to oppose this legislation.

The timing of A. 8268/S. 7545 is especially egregious considering the serious scope of recalls across the nation. According to the National Highway Traffic Safety Administration (NHTSA), since 1997 over 680 million vehicles have been subject to a safety recall. The recall involving Takata airbags alone includes approximately 50 million affected air bags in an estimated 37 million vehicles. As of March 2018, less than half of the recalled airbags have been replaced (NHTSA).

New York consumers deserve much more than a perfunctory notification that the vehicle they are purchasing has a serious and potentially deadly safety defect, such as unrepaired components for steering, braking or the vehicle's air bags. Federal law currently prohibits automobile dealers from selling new vehicles that are subject to a federal safety defect recall until they are repaired. In addition, Congress prohibited rental cars with an open recall from being given to a consumer as part of the transportation authorization bill enacted in December 2015 (FAST Act, Pub. L. 114-94, Sec. 24109). A. 8268/S. 7545 flies in the face of the intent of these two consumer protection laws and would permit dealers in New York to needlessly endanger its citizens by shifting responsibility to fix the recall from the dealer to an unsuspecting consumer.

If enacted, this legislation would be a serious step backward in consumer safety protections in New York. It targets consumers at a vulnerable point, after hours of serious consideration and negotiation toward the purchase of a used car. Moreover, there is a significant amount of paperwork associated with the car-purchasing process, and consequently often not all of the documents are carefully read and contemplated by consumers. The notification that a defect has not been repaired could be slipped into this pile of papers, with its significance unsuspected by the consumer.

Families who cannot afford to purchase a new vehicle or who simply seek the value of purchasing a used auto deserve the same protections against safety defects afforded to new car buyers. According to industry sources, 75 percent of automotive sales in the U.S. involve used vehicles. Each year, approximately 40 million used vehicle sales are sold (Manheim 2017 Used Car Market Report). Buying a second hand car should not mean that consumers should be subject to second rate safety protections, as well as all motorists and road users sharing the roads with them. New York motorists and their passengers deserve better protection and they deserve to have an unsafe vehicle repaired before taking ownership and getting behind the wheel.

Sincerely,

Catherine Chase, President