



LEGISLATIVE MEMORANDUM NO: 144-18 CONTACT: Russ Haven PHONE: 518 436-0876

S.7545-A/A.8268-B

IN SENATE, BILL NUMBER 7545-A. INTRODUCED BY SENATORS FUNKE, CARLUCCI & HELMING.

IN ASSEMBLY, BILL NUMBER 8268-B. INTRODUCED BY MEMBERS OF ASSEMBLY. PHEFFER AMATO, LUPARDO, QUART, DILAN & NORRIS.

AN ACT to amend the general business law, in relation to safety recalls on used motor vehicles

SUMMARY OF PROVISIONS:

This legislation would amend the General Business Law to add a new section 198-d to allow used cars subject to safety recalls to be sold except when the car is “under a stop drive order.” Used car sellers would be required to check a National Highway Traffic Safety Administration (“NHTSA”) website no more than two days before sale to determine if a car is subject to a safety recall and provide a report copy to the purchaser. Compliance with the safety database check and consumer disclosure requirements would shield sellers against deceptive acts claims.

STATEMENT OF OPPOSITION:

This legislation would give used car dealers the green light to knowingly sell cars subject to safety recalls without repairing them first. It would enshrine in statute the right to sell dangerous products and provide legal immunity to sellers when the defective cars they sell cause serious injuries and even death due to known defects, like problems with brakes, airbags, restraint systems and steering.

An exception would be provided for cars that are subject to a “stop drive order,” a term that doesn’t appear in federal law and as a practical matter would almost never be met. This effectively means that *all* used cars subject to safety recalls could be sold in the state.

Moreover, the legislation would undermine Vehicle and Traffic Law section 417, which requires used car sellers to certify at the time of sale that the vehicle “is in condition and repair to render, under normal use, satisfactory and adequate service upon the public highway at the time of delivery.”

Not only would this legislation shift the entire burden for repairing car safety defects to purchasers, but it likely means that the sale price would not reflect the dollar value of the car with the defect—meaning consumers will overpay for defective used cars *and* assume the risk of repairs. Used car dealers should fix cars with safety defects before selling them to protect buyers, passengers, pedestrians, other drivers and property. That’s just common sense and marketplace fairness.

Buying a second-hand car should NOT mean you get second-hand protections.

NYPIRG urges that you oppose this anti-consumer bill.