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Honorable Noreen Evans  
State Capitol, Room 4085  
Sacramento, CA 95814

**RE: SB 686 (Jackson) - Oppose**

Dear Senator Evans:

On behalf of our client, CarMax Auto Superstores, Inc. (CarMax), I write to express their opposition of SB 686. CarMax is the nation's leading specialty retailer of used cars operating more than **100 stores in over 40 markets**, including 16 stores in California.

SB 686 (Jackson) is well-intended, but is significantly flawed as currently drafted. This bill would prohibit the sale of a vehicle if it is subject to a manufacturer's safety recall and that recall has not been repaired. Manufacturer's safety recalls should be taken seriously by manufacturers, dealers, and consumers which is why CarMax carefully advises its customers to register their vehicles with its manufacturer as soon as they purchase the vehicle so that they can be apprised of any future recalls. Unfortunately manufacturers do not permit independent auto dealers like CarMax to repair recalls. Further, the manufacturers do not even grant independent auto dealers like CarMax access to their internal databases in order to determine whether a vehicle is even subject to a recall. Thus, independent dealers are left to search a manufacturer's website (which typically requires a person to register the vehicle and provide a name and both an email and physical address) or call a manufacturer's franchisee and inquire about a vehicle's recall status. This system is broken.

Congress recognized that there is a need for a centralized database that would allow any person to enter in a Vehicle Identification Number (VIN) and determine whether or not that vehicle is subject to a manufacturer safety recall, and whether the recall maintenance has been performed. As such, Congress passed legislation last year to create a free internet database that would make this information available publically (MAP-21). The National Highway Traffic Safety Administration (NHTSA) is

charged with the creation of the MAP-21 database. Once the MAP-21 database is available, all dealers will be better equipped to identify and repair open recalls on their vehicles. Accordingly, SB 686 is premature and should be implemented after the MAP-21 database is available.

Until MAP-21 is implemented, dealers must use the same broken system many currently utilize: attempting to determine the recall status using the manufacturer's website (most of which do not permit searching by VIN and instead require that the user "register" their VIN, provide name, email and physical address and a password) or call a competing dealer provide a VIN and hopefully obtain accurate information. Additionally, while some vehicle history reports provide recall information for some (but not all) manufacturers, they do not receive recall information in real time. Often this information is transmitted from the manufacturer to the vehicle history report provider on anywhere from a weekly to a monthly basis.

Dealers would not have increased access to recall information simply because this bill would mandate it. Instead, the current practice of calling a franchisee would likely disappear because of the liability involved. Franchisees have the best available information regarding recall status in the absence of the MAP-21 database. As such, this legislation, which attempts to provide increased consumer safety until the MAP-21 database exists, would instead reduce consumer safety by removing the best available information as an option. While reducing consumer safety, it would lead consumers to believe they are in fact well-protected and would likely reduce their interest in being vigilant individually. The combination of these two factors put consumers at risk, while creating liability for businesses in California who currently use the best available options for ensuring their customers are protected. Forcing a solution prior to the MAP-21 database harms consumers and California businesses.

For these reasons, we respectfully request you oppose SB 686. Please contact me if you have any questions or concerns regarding this bill.

Sincerely,

KAHN, SOARES & CONWAY, LLP



Crystal Jack

Cc: Members, Senate Committee on Judiciary