



ADVOCATES
FOR HIGHWAY
& AUTO SAFETY

July 10, 2019

The Honorable Paul R. Feeney, Senate Chair
The Honorable Tackey Chan, House Chair
Joint Committee on Consumer Protection and Professional Licensure
Massachusetts State Legislature
24 Beacon Street, Rooms 215 and 42
Boston, Massachusetts 02133

Dear Chairperson Feeney and Chairperson Chan:

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 Senate Bill (S.) 179/ House Bill (H.) 262. This legislation would allow dealers to sell used cars subject to an open safety recall if the customer is notified at the time of sale about the unrepaired defect. This proposal is inadequate to address the dangerous and potentially deadly problem of recalls that aren't fixed, and we urge you to oppose this legislation.

The timing of S. 179/ H. 262 is especially egregious considering the serious scope of safety 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 56 million affected air bags in an estimated 41 million vehicles.

Massachusetts consumers deserve much more than a perfunctory notification that the vehicle they are purchasing has a 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). S. 179/ H. 262 is contrary to the intent of these two consumer protection laws and would permit dealers in Massachusetts to needlessly endanger all road users by shifting responsibility to fix the recall from dealers to consumers who are likely unsuspecting of the potential detriment to their safety.

Most consumers will assume that a used vehicle would not be able to be sold by a dealer if an unfixed recall rendered the vehicle potentially unsafe. This is a reasonable assumption. Additionally, a significant amount of paperwork is 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 unimagined by the consumer. Further, unknowing consumers are at a vulnerable point at that time, after potential hours of serious consideration and negotiation toward the purchase of a used car. If enacted, this legislation would be a serious step backward in consumer safety protections in Massachusetts.

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, 70 percent of automotive sales in the U.S. involve used vehicles. Each year, approximately 40 million used vehicles are sold (Manheim 2018 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 sharing the roads with them. Massachusetts citizens deserve better protection, and they deserve to have an unsafe vehicle repaired before taking ownership and getting behind the wheel.

Sincerely,

Catherine Chase, President