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Advancing Fairness in the Marketplace for All

July 25, 2018

State House
Room
Boston MA 02133

RE: – In opposition to Amendment #208 Automobile Franchise Fairness, of Economic Development Bill, S2625

Dear Senator,

On behalf of each of our organizations, which together represent millions of consumers in Massachusetts and across the country, we write to oppose Amendment #208, of the Economic Development Bill, filed by Senator Pacheco. The amendment, backed by auto dealers, threatens public safety. Specifically, the amendment **would roll back an important consumer protection and open the flood gates to the sale of unsafe and dangerous unrepaired recalled cars on our roadways.** This amendment, filed first as a bill, failed to get support from the Joint Committee on Consumer Protection and should not be attached to the Economic Development bill.

Amendment #208, Automobile Franchise Fairness, drastically weakens our existing auto sales laws in Massachusetts. Our laws currently mandate that car dealers affirmatively warrant that used cars they sell to consumers are "safe to operate on the roads." It also makes dealers liable for failing to comply with the common law duty of care, and for engaging in acts that are unfair and deceptive, or negligent, or that result in wrongful death. This amendment will, for the first time, affirmatively allow for the sale of cars under an unrepaired safety recall in Massachusetts.

There is no other recalled product that can be sold legally to consumers 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. The 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.

Amendment #208 shifts legal liability onto victims of unsafe vehicles, and gives 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.

This measure poses 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.

It is similar to other special-interest measures dealers have sought to get enacted in other states including California, New Jersey, Virginia, and Maryland. In all of those states, the bills were either defeated or amended to remove the harmful provisions. Because Amendment #208 would make our law weaker than the laws in other states, **it would make Massachusetts a dumping ground for unsafe recalled cars.**

By opening the floodgates for car dealers to sell used vehicles with unrepaired safety recall defects, and undermining existing state law protections, this amendment 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.

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

If this amendment passed, dealers would be allowed to sell vehicles with defects like the exploding Takata airbags, where there are severe shortages of repair parts, and the dealers are well aware there is no way car buyers can get the recall repairs performed, for months after purchase.

We strongly urge that this dangerous, profoundly anti-consumer, anti-safety, special interest amendment be defeated. Thank you for your consideration of our views.

Sincerely,

Deirdre Cummings
Legislative Director, MASSPIRG
294 Washington St., Boston MA 02108

John W. Van Alst,
The National Consumer Law Center, on behalf of its low-income clients
7 Winthrop Square, 4th Floor, Boston, MA 02110

Sean Kane
The Safety Institute, President, Board of Directors
340 Anawan St., Rehoboth, MA, 02769

Rosemary Shahan
President, Consumers for Auto Reliability and Safety

1107 9th Street, Suite 560, Sacramento, CA 95814