

Consumers League of New Jersey
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July 3, 2018

The Honorable Phil Murphy
Governor, State of New Jersey
Office of the Governor
PO Box 001
Trenton, NJ 08625

RE: S 2740 (Beach) / A 4292 (Greenwald) Request for Veto

Dear Governor Murphy:

The Consumers League of New Jersey strongly urges you to veto S 2740 (Beach) and A 4292 (Greenwald), special-interest legislation backed by unscrupulous auto dealers, should those bills (either singly or as companion measures) reach your desk.

As the New Jersey State Bar Association has stated, those measures are “not really consumer protection bill[s]” and “should those measures become law, New Jersey consumers will be afforded less protection and little recourse when confronted with fraudulent business practices.”

Those measures would eviscerate existing protections in New Jersey from unsafe, defective vehicles that are subject to either a safety or emissions recall, and also hamper the ability of individual victims and the Attorney General of our State to assert their rights in court, by capping attorneys fees at an unprecedented 30% of the amount of damages awarded, regarding any type of fraud committed by an auto dealer.

These extreme measures, which are backed by unscrupulous auto dealers who seek to maximize their profits by knowingly and deliberately selling vehicles with dangerous safety or emissions recall defects, would drastically weaken the existing laws in New Jersey that currently protect the public from defective vehicles with known safety or emissions defects by holding auto dealers liable if they engage in false advertising or bait and switch; fail to comply with express and / or implied warranties; engage in unfair and deceptive acts and practices or fraud; fail to comply with the common law duty of care; or act with negligence, resulting in damage, injuries, or wrongful death.

These bills would shift legal liability onto victims of unsafe vehicles, and give 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 or emissions 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.

These measures pose 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 and illnesses due to motor vehicle safety or emissions defects.

S 2740 / A 4292 are similar to other special-interest measures dealers have sought to get enacted in other states, that were either defeated or amended to remove the harmful provisions, including California, Virginia, and Maryland, and most recently, New York. Because they would make New Jersey's laws weaker than the laws in other states, they would make New Jersey into a dumping ground for unsafe recalled cars.

As polling conducted by Public Policy Polling in New Jersey found, likely voters overwhelmingly oppose allowing dealers to sell unrepaired recalled cars, with or without "disclosure," with over 90% opposing such legislation.

It is a violation of federal law for dealers to sell recalled vehicles as "new" cars. It is also a violation of federal law – the Raechel and Jacqueline Houck Safe Rental Car Act, named for two sisters who were killed by a recalled rental car – for rental car companies with fleets of 35 or more vehicles to rent, loan, or sell used vehicles that are subject to a federal safety recall.

Used recalled cars sold by car dealers are equally unsafe, and we believe that used car buyers deserve to have the same level of safety, even if they cannot afford to purchase a new car, or simply choose to purchase a vehicle that is used. But by opening the floodgates for car dealers to sell used vehicles with unrepaired safety recall defects, and undermining existing state law protections, these bills 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.

This measure would also allow dealers to sell vehicles with defects like exploding Takata airbags, where there are severe shortages of repair parts, and the dealers are well aware there is no way the car buyers can get the recall repairs performed, for months after purchase.

There is no other recalled product that can be sold legally 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. Therefore the American 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.

In sum, we strongly urge that you act to protect New Jersey citizens from these dangerous, profoundly anti-consumer, anti-safety special interest bills, by vetoing them. Thank you for your consideration of our views.

Sincerely,

Robert J. Russo

Robert J. Russo

President